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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MINNESOTA

3 -----

4 Andrea Ferkingstad,

5 Plaintiff,

6 vs. Civil Action No. 16-cv-03565-JNE-BRT

7 Accounts Receivable Services, LLC,

8 Defendant.

9 -----

10

11 DEPOSITION OF JOCELYN J. FOUNTAIN

12 VOLUME I, PAGES 1 - 121

13 OCTOBER 23, 2017

14

15

16 (The following is the deposition of JOCELYN

17 J. FOUNTAIN, taken pursuant to Notice of Taking

18 Deposition, at the offices of Bassford Remele, 100

19 South Fifth Street, Suite 1500, in the City of

20 Minneapolis, State of Minnesota, commencing at

21 approximately 8:58 o'clock a.m., October 23, 2017.)

22

23

24

25

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1 REDACTED, ARS0012

13 ALLINA HEALTH, Detailed Bill for 10

2 Andrea N. Ferkingstad, ARS0014 to

3 14 Group exhibit: ALLINA HEALTH 11

4 Detailed Bill for Andrea N.

5 Ferkingstad, Page 1 of 2 and 2 of

6 15 2; HOSPITAL STATEMENT, \$791.47; 79

7 ARS0004, 0005, 0011, 0012, 0006 to

8 16 0010

9 Allina Health Annual Financial

10 Disclosure Statement Year Ended 81

11 December 31, 2015, 81 pgs.

12 16 ALLINA HEALTH SYSTEM Annual 81

13 Financial Disclosure Statement Year

14 Ended December 31, 2015, Pg. 2

15 Excerpt, ALLINA HEALTH SYSTEM 86

16 Annual Financial Disclosure

17 Statement Year Ended December 31,

18 2009, 6 pgs. (Cover, Table of

19 Contents, 1-4)

20 Excerpt, Allina Health Annual 89

21 Financial Disclosure Statement Year

22 Ended December 31, 2016, 5 pgs.

23 (Cover, 2, 15 to 17)

24

25

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1 APPEARANCES:

2 On Behalf of the Plaintiff:

3 Darren Brayer Schwiebert

4 DBS LAW LLC

5 301 Fourth Avenue South

6 Suite 280N

7 Minneapolis, Minnesota 55415

8 On Behalf of the Defendant:

9 Michael J. Klutho

10 BASSFORD REMELE, P.A.

11 100 South Fifth Street

12 Suite 1500

13 Minneapolis, Minnesota 55415

14 ALSO PRESENT:

15 Bonita J. Drennen

16

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1 PROCEEDINGS

08:58:17 2 (Witness sworn.)

3 JOCELYN J. FOUNTAIN,

4 Called as a witness, being first

5 duly sworn, was examined and

6 testified as follows:

7 EXAMINATION

8 BY MR. SCHWIEBERT:

08:58:31 9 Q. Can you please state and spell your full

08:58:32 10 name for the record.

08:58:33 11 A. Absolutely. Jocelyn Fountain,

08:58:39 12 J-O-C-E-L-Y-N, last name is F-O-U-N-T-A-I-N.

08:58:43 13 MR. KLUTHO: I'm going to mark a couple of

08:58:45 14 exhibits before we start because this deposition is

08:58:45 15 --

08:58:48 16 Have you mark those as 1 and 2, please.

08:59:13 17 (Exhibits 1 & 2 marked for

08:59:13 18 identification.)

08:59:13 19 MR. KLUTHO: These are really for counsel.

08:59:15 20 Exhibit 1 is the judge's order on our motion to

08:59:18 21 dismiss. The judge concluded that the only issue

08:59:20 22 left in this case is as follows: "Ferkingstad

08:59:29 23 plausibly alleges that ARS falsely represented - at

08:59:32 24 the time it made its representations - that it owned

08:59:36 25 a debt against her. Her claims based on the false

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08:59:41 **1** sale and assignment representation survive ARS's
 08:59:44 **2** Motion to Dismiss."
 08:59:45 **3** That's the only issue left in the case.
 08:59:47 **4** And it references specifically that it has to do with
 08:59:50 **5** the time that the representations were made in the
 08:59:53 **6** Conciliation Court action. The second, Exhibit 2, is
 08:59:56 **7** a United States Code Section 1927 regarding counsel's
 09:00:00 **8** liability for excessive costs, indicating that: "Any
 09:00:04 **9** attorney or other person admitted to conduct cases in
 09:00:07 **10** any court of the United States or any Territory
 09:00:10 **11** thereof who so he multiplies the proceedings in any
 09:00:14 **12** case unreasonably and vexatiously may be required by
 09:00:18 **13** the court to satisfy personally the excess costs,
 09:00:20 **14** expenses, and attorneys' fees reasonably incurred by
 09:00:24 **15** such conduct."
 09:00:24 **16** I have had an ongoing discussion with
 09:00:29 **17** opposing counsel about the scope of the subpoenas and
 09:00:32 **18** deposition notices that they are far beyond the sole
 09:00:35 **19** issue that's left in this case; I've gotten nowhere
 09:00:38 **20** with them. So I'm simply putting you on notice,
 09:00:40 **21** counsel of my intent to seek attorneys' fees and
 09:00:44 **22** sanctions against you pursuant to Section 1927 to the
 09:00:48 **23** extent you go beyond the sole issue left in this
 09:00:50 **24** case.
 09:00:51 **25** MR. SCHWIEBERT: Are you done?
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09:01:45 **1** will try my best to wait until you've given your
 09:01:48 **2** entire answer before I ask the next question.
 09:01:50 **3** Is that fair?
 09:01:51 **4** A. Yes.
 09:01:52 **5** Q. If at any point I cut you off or don't let
 09:01:55 **6** you give your full answer, just let me know, I'll make
 09:01:59 **7** sure that you get your full answer in the record.
 09:02:01 **8** Okay?
 09:02:01 **9** A. Okay.
 09:02:02 **10** Q. The other thing, because it's a recorded
 09:02:04 **11** medium we need to do is we need to make sure that you
 09:02:06 **12** understand the question and that you're answering the
 09:02:08 **13** question as you understand it. So all that I ask is
 09:02:10 **14** that if I ask you a question you don't understand,
 09:02:13 **15** that you have me clarify.
 09:02:15 **16** Is that fair?
 09:02:15 **17** A. Yes.
 09:02:16 **18** Q. Okay. And I'm going to presume, if you
 09:02:18 **19** don't ask me to clarify, you understood it because you
 09:02:20 **20** went ahead and answered it. Correct?
 09:02:22 **21** A. Yes.
 09:02:23 **22** Q. Do you understand you're under oath as if
 09:02:25 **23** you were before the judge and jury?
 09:02:27 **24** A. Yes.
 09:02:27 **25** Q. Are you currently on any medications that
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09:00:53 **1** MR. KLUTHO: Yes.
 09:00:53 **2** BY MR. SCHWIEBERT:
 09:00:54 **3** Q. Ms. Fountain have you ever been deposed
 09:00:56 **4** before?
 09:00:56 **5** A. No.
 09:00:56 **6** Q. I'm going to go over the procedure just so
 09:01:02 **7** it makes sense to you.
 09:01:03 **8** As you can see, the court reporter is going
 09:01:04 **9** to type in all of my questions and all of your
 09:01:08 **10** answers.
 09:01:09 **11** A. Okay.
 09:01:09 **12** Q. For that to be an effective medium to
 09:01:11 **13** capture your testimony there are two things that we
 09:01:13 **14** have to do. The first is all of your answers have to
 09:01:16 **15** be verbal. Head shrugs, nods, uh-huhs, umm-hmms don't
 09:01:24 **16** translate in a written transcript as an answer to the
 09:01:26 **17** question.
 09:01:26 **18** Does that make sense to you?
 09:01:28 **19** A. Yes.
 09:01:28 **20** Q. The other thing we have to do is, and I will
 09:01:30 **21** do this probably more than you, is we have to wait
 09:01:33 **22** until the other person is done speaking before we
 09:01:36 **23** begin speaking. So all I ask is that you wait until
 09:01:39 **24** I'm done asking the question, I realize some of them
 09:01:42 **25** may get obvious, before you provide your answer, and I
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09:02:31 **1** would prevent you from providing complete and truthful
 09:02:32 **2** answers?
 09:02:33 **3** A. No.
 09:02:34 **4** Q. All right.
 09:02:48 **5** (Exhibit 3 marked for identification.)
 09:02:48 **6** MR. KLUTHO: One other note for the record.
 09:02:49 **7** Counsel, you've noted Ms. Fountain to testify
 09:02:53 **8** individually, and also noted a deposition of Allina.
 09:02:57 **9** Ms. Fountain is the Allina rep, so I'd just ask you
 09:03:00 **10** just to ask everything you want to ask in one
 09:03:02 **11** deposition, we aren't going to reconvene. She's
 09:03:04 **12** speaking on behalf of Allina.
 09:03:08 **13** BY MR. SCHWIEBERT:
 09:03:09 **14** Q. Ms. Fountain, have you seen Exhibit 3
 09:03:12 **15** before?
 09:03:16 **16** A. Now.
 09:03:17 **17** Q. Had you seen it before this deposition?
 09:03:19 **18** A. Yes.
 09:03:22 **19** Q. Okay. You understand that Exhibit 3 is the
 09:03:24 **20** subpoena for you to appear and testify this morning at
 09:03:28 **21** 9 a.m. in these law offices in this legal matter;
 09:03:31 **22** correct?
 09:03:31 **23** A. Correct.
 09:03:32 **24** Q. Okay.
 09:03:38 **25** (Discussion off the record.)
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09:03:42 **1** MR. SCHWIEBERT: This will be 4. Oh,
 09:03:43 **2** actually let's not mark it.
 09:03:44 **3** BY MR. SCHWIEBERT:
 09:03:45 **4** **Q.** Ms. Fountain, I've handed you a stack of
 09:03:48 **5** documents that we're going to mark in pieces in a
 09:03:50 **6** minute.
 09:03:50 **7** Have you seen this document before?
 09:03:54 **8** **A.** (Witness reviewing document.) Yes,
 09:04:01 **9** something that looks similar.
 09:04:03 **10** **Q.** Well you understand that this stack of
 09:04:06 **11** documents is the subpoena that was served upon Allina
 09:04:11 **12** Health Systems --
 09:04:12 **13** **A.** Yes.
 09:04:12 **14** **Q.** -- to provide testimony this afternoon at
 09:04:15 **15** one o'clock; correct? And to produce some documents
 09:04:18 **16** as appears on the front page of the subpoena.
 09:04:21 **17** Correct?
 09:04:21 **18** **A.** Yes.
 09:04:22 **19** **Q.** Okay. As I understand it from your counsel,
 09:04:24 **20** there's a preference that we do this deposition first.
 09:04:27 **21** Are you okay with that?
 09:04:29 **22** **A.** Yes.
 09:04:30 **23** MR. KLUTHO: That's not what I said,
 09:04:31 **24** counsel. I said you're going to take one deposition.
 09:04:33 **25** You ask all your questions that you have of Ms.
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09:08:03 **1** **A.** Well they're the same ones you already have
 09:08:06 **2** given me. [Handing.]
 09:08:32 **3** MR. SCHWIEBERT: Okay. Let's mark this as
 09:08:34 **4** Exhibit 14, and I'll make a copy of them when we get
 09:08:38 **5** to the break.
 09:08:47 **6** (Exhibit 14 marked for identification.)
 09:08:47 **7** BY MR. SCHWIEBERT:
 09:08:48 **8** **Q.** The first document production request is the
 09:08:51 **9** Purchase of Business Agreement dated October 7th, 2015
 09:08:54 **10** as referenced in Exhibit E attached hereto.
 09:08:57 **11** Did I read it correctly?
 09:08:59 **12** **A.** Correct.
 09:08:59 **13** **Q.** Here's your Exhibit 14 which is the
 09:09:02 **14** documents you brought. Can you please point out to me
 09:09:04 **15** the Purchase of Business Agreement dated October 7th,
 09:09:06 **16** 2015?
 09:09:09 **17** MR. KLUTHO: For the record I'll object,
 09:09:11 **18** counsel, there is no such document because of the
 09:09:14 **19** person who drafted the request, which would be you.
 09:09:19 **20** MR. SCHWIEBERT: Counsel, I'll just warn
 09:09:20 **21** you not to testify or coach the witness.
 09:09:23 **22** MR. KLUTHO: I'm not coaching anybody.
 09:09:24 **23** **A.** Okay. There is no Purchase of Business
 09:09:27 **24** Agreement signed on October 7th, 2015. There is a
 09:09:33 **25** Bill of Sale.
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09:04:36 **1** Fountain. She is here also speaking on behalf of
 09:04:40 **2** Allina in response to that subpoena. We're not going
 09:04:42 **3** to sit for a second deposition.
 09:04:43 **4** BY MR. SCHWIEBERT:
 09:04:44 **5** **Q.** We're going to start with this subpoena even
 09:04:45 **6** though the time is different so we can hopefully get
 09:04:48 **7** most, if not all of it, done at the same time. Can I
 09:04:50 **8** have it back from you for just a second?
 09:04:53 **9** **A.** [Handing.]
 09:04:54 **10** MR. SCHWIEBERT: We're going to mark this
 09:04:55 **11** as I think it's six exhibits.
 09:07:33 **12** (Exhibits 4 - 13 marked for
 09:07:34 **13** identification.)
 09:07:34 **14** (Discussion off the record.)
 09:07:34 **15** BY MR. SCHWIEBERT:
 09:07:38 **16** **Q.** Ms. Fountain, so Exhibits 4 through 13 make
 09:07:44 **17** up the subpoena that was served on Allina Health
 09:07:49 **18** Systems.
 09:07:49 **19** **A.** Correct.
 09:07:50 **20** **Q.** Okay. Looking at the page of -- top of page
 09:07:53 **21** 4, there's a request for a production of documents.
 09:07:55 **22** Did you bring any documents with you today on behalf
 09:08:00 **23** of Allina?
 09:08:01 **24** **A.** Yes.
 09:08:01 **25** **Q.** What documents did you bring?
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09:09:34 **1** **Q.** Okay. Wait. I apologize.
 09:09:37 **2** In the Exhibit 1 Bill of Sale which was
 09:09:40 **3** Exhibit E to the subpoena there is a reference to the
 09:10:01 **4** --
 09:10:01 **5** MR. SCHWIEBERT: Stapled too many documents
 09:10:02 **6** together.
 09:10:04 **7** **Q.** -- Purchase of Business Agreement as of
 09:10:07 **8** October 7th, 2015 ("Agreement"); correct?
 09:10:16 **9** **A.** That's what it says, yes.
 09:10:18 **10** **Q.** Is there such a document?
 09:10:19 **11** **A.** The Purchase of Business Agreement is the
 09:10:21 **12** one that you have that it says "Blanket Purchase
 09:10:25 **13** Agreement."
 09:10:26 **14** **Q.** But you didn't bring that with you today.
 09:10:28 **15** **A.** I did. We put it in Exhibit 14 for you, and
 09:10:31 **16** you entered it as well.
 09:10:35 **17** **Q.** Where is Exhibit 14?
 09:10:39 **18** **A.** Exhibit 14 -- [handing], "Blanket Purchase
 09:10:46 **19** Agreement."
 09:10:47 **20** **Q.** Okay. So there is no document called a
 09:10:54 **21** "Purchase of Business Agreement"; is that correct?
 09:10:57 **22** **A.** Correct.
 09:10:59 **23** **Q.** It's your testimony that the reference to a
 09:11:02 **24** Purchase of Business Agreement is a reference to the
 09:11:05 **25** Blanket Purchase Agreement.
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09:11:07 **1** A. Correct.

09:11:23 **2** Q. Topic number 2, Exhibit 4 for production,

09:11:28 **3** the Bill of Sale regarding, that should be Ms.

09:11:33 **4** Ferkingstad's account, attached as Exhibit E to the

09:11:35 **5** deposition topics, purports to be Exhibit 1 to another

09:11:38 **6** document. Please provide the document to which the

09:11:40 **7** Bill of Sale is Exhibit 1.

09:11:46 **8** A. (Witness reviewing Exhibit 14.) That again

09:11:52 **9** would be the Blanket Purchase Agreement.

09:12:10 **10** MR. KLUTHO: Do you find something funny,

09:12:12 **11** counsel?

09:12:19 **12** Q. All right. So let's go to Exhibit 7 --

09:12:24 **13** would be in that stack -- which is the Blanket

09:12:27 **14** Purchase Agreement.

09:12:29 **15** A. Okay.

09:12:31 **16** Q. There's no Exhibit 1 referenced in Exhibit

09:12:37 **17** 7; is there?

09:12:40 **18** A. No.

09:12:42 **19** Q. Exhibit 7 is undated; correct?

09:12:49 **20** MR. KLUTHO: That's not true, counsel.

09:12:49 **21** A. There a date --

09:12:50 **22** MR. KLUTHO: There's a date right on there.

09:12:52 **23** A. -- that says it goes into effect January

09:12:54 **24** 17th, 2014.

09:12:56 **25** Q. I'd agree with you.

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09:12:56 **1** But we don't know when the document is

09:12:58 **2** actually dated. Nobody dates their signature.

09:13:01 **3** MR. KLUTHO: Objection, counsel,

09:13:03 **4** argumentative.

09:13:06 **5** Q. Correct?

09:13:08 **6** A. The date I look at on this document is

09:13:10 **7** January 17th, 2014.

09:13:11 **8** Q. That's the date the transfers go into

09:13:15 **9** effect.

09:13:15 **10** A. Correct.

09:13:18 **11** Q. Okay. Can you tell me where, in Exhibit 7,

09:13:23 **12** the term "transfer date" is defined?

09:13:27 **13** MR. KLUTHO: Objection, counsel. The

09:13:29 **14** document speaks for itself.

09:13:31 **15** A. No.

09:13:32 **16** Q. There is no definition of a term "transfer

09:13:35 **17** date" on Exhibit 7; is there?

09:13:37 **18** MR. KLUTHO: Objection, argumentative,

09:13:39 **19** vexatious. Stop it.

09:13:45 **20** Can you read, counsel?

09:13:47 **21** A. What was your question?

09:13:47 **22** Q. There is no definition of the term "transfer

09:13:50 **23** date" in Exhibit 7; is there?

09:13:51 **24** MR. KLUTHO: Same objections.

09:13:53 **25** A. No.

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09:13:54 **1** Q. Okay. If we look at Exhibit 11.

09:14:22 **2** A. Yes.

09:14:23 **3** Q. Exhibit 11 is the Exhibit 1 Bill of Sale;

09:14:27 **4** correct?

09:14:28 **5** A. Correct.

09:14:28 **6** Q. Signed by you.

09:14:29 **7** A. Correct.

09:14:30 **8** Q. When did you sign it?

09:14:32 **9** A. October 7th, 2015.

09:14:36 **10** Q. How do you know that?

09:14:38 **11** A. Because that's the date that I wrote in that

09:14:40 **12** little slot there.

09:14:42 **13** Q. You wrote in the date of the Purchase of

09:14:46 **14** Business Agreement.

09:14:46 **15** A. That's the date that I signed the agreement,

09:14:49 **16** this piece of paper here.

09:14:57 **17** Q. And again --

09:14:59 **18** A. That I signed the Bill of Sale, maybe I said

09:15:02 **19** that wrong. This document I signed on October 7th.

09:15:05 **20** MR. KLUTHO: Exhibit 11.

09:15:10 **21** Q. It says that there is this previous

09:15:13 **22** agreement which is called a Purchase of Business

09:15:16 **23** Agreement, and your testimony is that's the Blanket

09:15:19 **24** Purchase Agreement.

09:15:19 **25** A. Yes.

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09:15:20 **1** Q. Okay. And that there are terms, conditions

09:15:24 **2** and warranties set forth in the agreement. That's the

09:15:28 **3** last line of the first paragraph.

09:15:29 **4** A. That is.

09:15:30 **5** Q. Okay. Can you show me the warranties that

09:15:32 **6** are set forth in Exhibit 7?

09:15:36 **7** MR. KLUTHO: Objection, counsel. Exhibit 7

09:15:38 **8** speaks for itself.

09:15:41 **9** Q. I'm sorry, I missed this part of the...

09:15:43 **10** You need to answer until you're instructed

09:15:44 **11** not to answer by your counsel. So --

09:15:49 **12** A. Okay.

09:15:49 **13** MR. KLUTHO: We're going to get there

09:15:50 **14** pretty quick.

09:15:52 **15** A. Could you repeat the question again?

09:15:53 **16** Q. Can you show me where in Exhibit 7 the

09:15:56 **17** warranties are listed?

09:15:57 **18** A. I don't see the word "warranty" in this.

09:16:00 **19** Q. Is there any language in Exhibit 7 that you

09:16:02 **20** would interpret as a warranty?

09:16:09 **21** MR. KLUTHO: [Indicating.]

09:16:10 **22** A. It talks about the seller agrees that

09:16:13 **23** accounts are valid and the balances are correct, so to

09:16:15 **24** me that's a warranty of that. There is reasonable

09:16:18 **25** basis to believe the patient owes the debt. We have

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09:16:23 **1** billed all third-party payors and the remaining amount
 09:16:26 **2** is the sole responsibility of the patient or
 09:16:30 **3** guarantor. That the patient has not indicated an
 09:16:32 **4** inability to pay and that Allina has offered a
 09:16:35 **5** reasonable payment plan or the patient has had a
 09:16:37 **6** reasonable opportunity to apply for Charity Care where
 09:16:41 **7** the circumstances suggest the need.
 09:16:42 **8** **Q.** You interpret those as being the warranties
 09:16:44 **9** in the Purchase of Business Agreement.
 09:16:46 **10** **A.** Yes.
 09:16:47 **11** **Q.** Okay. The other thing is it's subject to
 09:16:51 **12** the terms of the Purchase of Business Agreement.
 09:16:55 **13** What are the terms of the Purchase of
 09:16:58 **14** Business Agreement?
 09:17:00 **15** **A.** I would suggest that the terms are the same
 09:17:01 **16** as the warranties.
 09:17:04 **17** **Q.** Well are certain accounts being transferred?
 09:17:13 **18** MR. KLUTHO: Object to the form of the
 09:17:15 **19** question. When, counsel?
 09:17:18 **20** **Q.** Let's read it together. Allina, and there's
 09:17:21 **21** an address, does hereby sell, assign and transfer to
 09:17:25 **22** Accounts Receivable Services, LLC d/b/a Reliance
 09:17:30 **23** Recovery, it's got their address, the following
 09:17:32 **24** accounts, plural; correct?
 09:17:34 **25** Did I read it correctly?
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09:18:44 **1** **A.** Correct.
 09:18:46 **2** **Q.** And that transfer of unpaid medical bills is
 09:18:49 **3** effective January 17th, 2014.
 09:18:51 **4** MR. KLUTHO: Objection, argumentative,
 09:18:54 **5** counsel.
 09:18:55 **6** **Q.** Correct?
 09:18:57 **7** **A.** No. This document is a Blanket Purchase
 09:19:02 **8** Agreement, "blanket."
 09:19:04 **9** **Q.** All right. I understand that the term
 09:19:05 **10** "blanket" appears, but the --
 09:19:07 **11** MR. KLUTHO: I don't think you understand,
 09:19:08 **12** counsel.
 09:19:09 **13** **Q.** -- agreement doesn't say that it goes into
 09:19:12 **14** effect, it says the transfers go into effect as of
 09:19:14 **15** January 17th, 2014; correct?
 09:19:16 **16** MR. KLUTHO: Objection, asked and answered.
 09:19:17 **17** Don't answer it again. I'm instructing you not to
 09:19:19 **18** answer.
 09:19:19 **19** You're again vexatiously violating this
 09:19:22 **20** witness's rights. She's told you the answer three
 09:19:25 **21** times. Move on.
 09:19:27 **22** MR. SCHWIEBERT: Are you instructing her
 09:19:28 **23** not to answer on the basis of privilege?
 09:19:30 **24** MR. KLUTHO: No, because you're asking
 09:19:33 **25** vexatious litigation. I'm making the objection for
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09:17:37 **1** **A.** You did read it correctly.
 09:17:38 **2** **Q.** And then there's a description of the
 09:17:39 **3** accounts.
 09:17:41 **4** **A.** For unpaid medical bills.
 09:17:44 **5** **Q.** Okay. But there's no attachment to Exhibit
 09:17:46 **6** 7; is there?
 09:17:48 **7** MR. KLUTHO: Correct.
 09:17:48 **8** **A.** I feel like we've already answered that yes.
 09:17:52 **9** **Q.** So these are unpaid medical bills that were
 09:17:55 **10** transferred on January 17th of 2014; correct?
 09:17:59 **11** **A.** No.
 09:18:00 **12** **Q.** Well the transfer is effective January 17th
 09:18:03 **13** of 2014; correct?
 09:18:04 **14** MR. KLUTHO: Objection, argumentative.
 09:18:08 **15** **A.** No, that's not correct.
 09:18:10 **16** This Blanket Purchase Agreement was meant to
 09:18:13 **17** cover everything that happened after this for us
 09:18:17 **18** selling debt to Accounts Receivable Services.
 09:18:22 **19** **Q.** Where in Exhibit 7 does it say that it
 09:18:26 **20** relates to transfers effective after January 17th of
 09:18:29 **21** 2014?
 09:18:30 **22** **A.** Well it says it goes into effect as of
 09:18:32 **23** January 17th, so I infer that from that document.
 09:18:39 **24** **Q.** This is an agreement for the transfer of
 09:18:42 **25** undefined unpaid medical bills; correct?
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09:19:36 **1** purposes of making a motion to the court.
 09:19:38 **2** MR. SCHWIEBERT: That would be category C.
 09:19:40 **3** Are you bringing your motion now?
 09:19:41 **4** MR. KLUTHO: No.
 09:19:43 **5** MR. SCHWIEBERT: Well you don't have that
 09:19:44 **6** choice, counsel. If you're instructing her not to
 09:19:46 **7** answer on the basis that you are bringing a motion
 09:19:48 **8** with the court for a protective order you have to do
 09:19:50 **9** it now.
 09:19:50 **10** MR. KLUTHO: No, I don't.
 09:20:13 **11** While he's writing, Ms. Fountain, just go
 09:20:15 **12** ahead and explain it to him one more time, see if
 09:20:18 **13** it'll get through --
 09:20:18 **14** THE WITNESS: Okay.
 09:20:19 **15** MR. KLUTHO: -- what this document says.
 09:20:21 **16** THE WITNESS: So this is a Blanket Purchase
 09:20:22 **17** Agreement for us selling unpaid medical bills to
 09:20:24 **18** Accounts Receivable Services. This Blanket Purchase
 09:20:28 **19** Agreement went into effect January 17, 2014.
 09:20:34 **20** BY MR. SCHWIEBERT:
 09:20:34 **21** **Q.** How did Allina know, on January 17th, 2014,
 09:20:37 **22** that accounts that are transferred in 2015 are valid
 09:20:42 **23** and the balances are correct?
 09:20:45 **24** **A.** Because we review every account before we
 09:20:47 **25** sell it to them, which is when I signed this document.
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09:20:51 **1** MR. KLUTHO: Exhibit 11.
 09:20:51 **2** **Q.** But how --
 09:20:52 **3** THE WITNESS: Exhibit 11.
 09:20:53 **4** **Q.** How do you --
 09:20:54 **5** How does Allina represent or warranty, as
 09:20:57 **6** you term it, in January of 2014 that something it
 09:21:02 **7** isn't looking at yet is -- because that's going to
 09:21:05 **8** happen in 2015, is valid and the balances are correct?
 09:21:10 **9** MR. KLUTHO: Objection, argumentative,
 09:21:11 **10** asked and answered.
 09:21:13 **11** Go ahead and tell him again.
 09:21:15 **12** **A.** Because we review the account when it is
 09:21:18 **13** signed for actual sale. This Blanket Purchase
 09:21:24 **14** Agreement kind of covers everything. This particular
 09:21:27 **15** document refers to Ferkingstad's account.
 09:21:30 **16** MR. KLUTHO: Exhibit 11.
 09:21:32 **17** THE WITNESS: Exhibit 11. Sorry.
 09:21:41 **18** **Q.** How many Exhibit 1's are there to Exhibit
 09:21:44 **19** number 7?
 09:21:48 **20** **A.** How many different accounts have we sold to
 09:21:50 **21** Accounts Receivable Services; is that what you're
 09:21:52 **22** asking me?
 09:21:52 **23** **Q.** If each one is a separate Exhibit 1 in order
 09:21:56 **24** to, according to your testimony, actually transfer or
 09:22:00 **25** actually sell the account, how many Exhibit 1's are
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09:23:22 **1** **A.** There were -- debts --
 09:23:25 **2** This is to cover transfers, in general, of
 09:23:27 **3** us selling debt to Accounts Receivable Services.
 09:23:31 **4** **Q.** And you understand when I use "ARS" I mean
 09:23:33 **5** "Accounts Receivable Services."
 09:23:35 **6** **A.** Yes.
 09:23:35 **7** **Q.** Or they're also called "Reliance
 09:23:38 **8** Recoveries."
 09:23:38 **9** **A.** Yes.
 09:23:38 **10** **Q.** You understand those are all the same
 09:23:40 **11** entity.
 09:23:40 **12** **A.** Correct.
 09:23:51 **13** **Q.** Exhibit 11, in the second paragraph, makes
 09:24:05 **14** reference to "good and valuable consideration." What
 09:24:09 **15** consideration was provided by ARS to Allina for the
 09:24:15 **16** alleged sale of the Ferkingstad account?
 09:24:18 **17** **A.** I don't understand your question.
 09:24:20 **18** **Q.** Well is it sold from Allina to ARS?
 09:24:25 **19** **A.** "Bill of Sale" indicates that we are
 09:24:28 **20** selling --
 09:24:28 **21** **Q.** Okay.
 09:24:29 **22** **A.** -- this account to Accounts Receivable
 09:24:32 **23** Services.
 09:24:32 **24** **Q.** Did they pay money for it?
 09:24:36 **25** **A.** Yes.
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09:22:04 **1** there?
 09:22:05 **2** **A.** Endless number.
 09:22:09 **3** **Q.** Thousands?
 09:22:09 **4** **A.** I wouldn't even want to guess and put it on
 09:22:12 **5** the record. Many.
 09:22:13 **6** MR. KLUTHO: Counsel, move on. This is
 09:22:17 **7** vexatious litigation. You're here to ask about
 09:22:20 **8** Ferkingstad, you're not here to ask about other
 09:22:24 **9** accounts. You're specifically told by the court in
 09:22:36 **10** the order that you're here to ask about the
 09:22:38 **11** representation at the time it was made in the
 09:22:43 **12** conciliation court action. I haven't heard anything
 09:22:46 **13** about that.
 09:22:47 **14** BY MR. SCHWIEBERT:
 09:22:48 **15** **Q.** Was something entered in the amount to be
 09:22:49 **16** paid on Exhibit 7 when it was signed?
 09:22:53 **17** **A.** No.
 09:22:53 **18** **Q.** It was blank then.
 09:22:54 **19** **A.** I did not sign this document, but the one
 09:22:56 **20** that I have is a blank document.
 09:23:07 **21** **Q.** On January 17th, 2014 certain unpaid medical
 09:23:11 **22** bills were transferred from Allina to ARS.
 09:23:16 **23** MR. KLUTHO: Objection, misstates the
 09:23:18 **24** testimony.
 09:23:19 **25** Are you not listening?
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09:24:37 **1** **Q.** When did they pay money for it?
 09:24:39 **2** **A.** That I do not know.
 09:24:40 **3** **Q.** How much did they pay for it?
 09:24:42 **4** **A.** That I do not know. It's outside my scope
 09:24:48 **5** of responsibility.
 09:24:56 **6** **Q.** Does Allina record the sale of the asset to
 09:25:01 **7** ARS on its books?
 09:25:06 **8** **A.** Yes.
 09:25:14 **9** **Q.** How is the value paid by ARS determined?
 09:25:19 **10** **A.** That I don't know.
 09:25:27 **11** **Q.** Is it based on any recovery on the debt?
 09:25:33 **12** **A.** Not at this point when it's sold.
 09:25:40 **13** I should just stick with "I don't know."
 09:25:42 **14** I'll stick with that. Again, outside my scope of
 09:25:45 **15** responsibility.
 09:25:49 **16** **Q.** Did you talk to anybody about that in
 09:25:51 **17** preparation for the deposition today?
 09:25:54 **18** **A.** No.
 09:26:05 **19** **Q.** Seller, which is Allina, hereby sells,
 09:26:07 **20** assigns and transfers and delivers to purchaser,
 09:26:11 **21** that's ARS, all of seller's right, title and interest
 09:26:15 **22** in each and every one of the assets described in the
 09:26:20 **23** agreement.
 09:26:22 **24** Did I read that correctly?
 09:26:24 **25** **A.** Yes.
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09:26:24 **1** Q. All right. The Agreement, capital A is a
 09:26:27 **2** reference, according to your testimony, to the Blanket
 09:26:30 **3** Purchase Agreement; correct?
 09:26:30 **4** A. Yes.
 09:26:32 **5** Q. Is the Ferkingstad asset described in
 09:26:39 **6** Exhibit 7?
 09:26:44 **7** A. I would say yes, because it's an unpaid
 09:26:47 **8** medical bill.
 09:26:52 **9** Q. Is there any reference to Ms. Ferkingstad's
 09:26:55 **10** account in Exhibit 7?
 09:26:56 **11** A. No.
 09:27:05 **12** Q. When Exhibit 11 was signed by you on October
 09:27:09 **13** 7th, 2015, are multiple accounts being transferred
 09:27:14 **14** with this single Exhibit 1?
 09:27:16 **15** A. No. This Exhibit 1 refers to Ferkingstad's
 09:27:19 **16** account only.
 09:27:21 **17** Q. Then why is it "each and every one of the
 09:27:25 **18** Assets," plural?
 09:27:30 **19** A. So in Exhibit 1A, Exhibit 12 -- sorry -- for
 09:27:35 **20** this, in this particular case Ferkingstad only had one
 09:27:39 **21** account at Unity Hospital that she had not paid.
 09:27:44 **22** There could have been multiple accounts, so that to me
 09:27:46 **23** would indicate multiple assets, and those would have
 09:27:49 **24** been listed in this Exhibit 12.
 09:27:52 **25** Q. So the Exhibit 11, which in your testimony
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09:27:55 **1** is individualized for Ms. Ferkingstad, --
 09:27:58 **2** A. Yes.
 09:27:58 **3** Q. -- there's a reference to multiple assets
 09:28:01 **4** even though, at least in Exhibit 12, there's only one
 09:28:05 **5** of them; correct?
 09:28:07 **6** MR. KLUTHO: Very astute, counsel.
 09:28:09 **7** A. Yes.
 09:28:10 **8** Q. Okay. And you'd agree with me that Exhibit
 09:28:14 **9** 12 is not the Exhibit 1A referenced in Exhibit 11.
 09:28:22 **10** A. Correct.
 09:28:23 **11** Q. Okay. Where is Exhibit 1A that's referenced
 09:28:25 **12** in Exhibit 11?
 09:28:28 **13** MR. KLUTHO: That is it.
 09:28:29 **14** MR. SCHWIEBERT: Counsel.
 09:28:30 **15** A. Yes. So this one that's dated 10/13 of '15
 09:28:38 **16** is what was sent to court. That's not the one that I
 09:28:40 **17** looked at on 10/7 of '15. And the reason for that,
 09:28:46 **18** and this is partly Bonnie's to say, but has to do with
 09:28:51 **19** the interest that was accrued on this account. The
 09:28:56 **20** principal balance was the same, and that's what I
 09:28:59 **21** refer to when I'm looking at this. The principal
 09:29:02 **22** balance listed on this Exhibit 1A is the same for
 09:29:07 **23** Exhibit 11 and 12.
 09:29:11 **24** Q. I think my question was much simpler than
 09:29:13 **25** that.

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09:29:15 **1** A. Okay.
 09:29:15 **2** Q. Where is --
 09:29:16 **3** Well let me put it this way. Did you bring
 09:29:18 **4** with us today the Exhibit 1A that was attached to
 09:29:21 **5** Exhibit 11?
 09:29:25 **6** A. When I --
 09:29:25 **7** At the time I signed it?
 09:29:26 **8** Q. Yes.
 09:29:27 **9** A. No, because it no longer exists.
 09:29:30 **10** Q. Well all that's getting transferred is, and
 09:29:33 **11** we're going to skip some language --
 09:29:35 **12** A. Umm-hmm.
 09:29:36 **13** Q. -- those that are -- assets as listed in
 09:29:39 **14** Exhibit 1A attached hereto.
 09:29:40 **15** A. Correct. And this is the updated, amended
 09:29:44 **16** 1A.
 09:29:45 **17** Q. But this is not the 1A that you attached
 09:29:47 **18** when you signed it.
 09:29:47 **19** A. Correct.
 09:29:48 **20** Q. Okay. And that document hasn't been
 09:29:51 **21** provided by Allina.
 09:29:53 **22** A. No.
 09:29:54 **23** Q. I think you said that document no longer
 09:29:56 **24** exists.
 09:29:56 **25** A. Well I guess I shouldn't say that. I do not
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09:29:58 **1** have a copy of it.
 09:30:02 **2** And again, the principal balance is the
 09:30:07 **3** same, which is what I review when I look at this
 09:30:10 **4** document to sign off on it.
 09:30:16 **5** Q. Is there ever an Exhibit 1A that is attached
 09:30:20 **6** to this Exhibit 1 at the time you sign it?
 09:30:25 **7** A. Umm-hmm. Yes.
 09:30:26 **8** Q. Okay. You keep using the word "review,"
 09:30:28 **9** that's why I'm trying to figure out exactly what
 09:30:30 **10** this...
 09:30:31 **11** Is there, at your office, a copy of Exhibit
 09:30:35 **12** 11 that has the Exhibit 1A that's attached to it?
 09:30:38 **13** A. No.
 09:30:39 **14** Q. Okay.
 09:30:42 **15** A. This is the Exhibit 1A that goes with this
 09:30:46 **16** document.
 09:30:47 **17** Q. Well but we know that that's not the Exhibit
 09:30:48 **18** 1A because that's not printed until the 13th of
 09:30:51 **19** October; --
 09:30:52 **20** MR. KLUTHO: Objection, --
 09:30:52 **21** Q. -- correct?
 09:30:54 **22** MR. KLUTHO: -- argumentative, it misstates
 09:30:55 **23** her testimony.
 09:30:56 **24** A. Correct.
 09:31:10 **25** Q. Who drafts Exhibit 11 for your signature?

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09:31:16 **1** A. Accounts Receivable Services.
 09:31:19 **2** Q. Somebody at ARS provides you with Exhibit 1
 09:31:30 **3** --
 09:31:30 **4** A. Well yep, Exhibit 11 for the court.
 09:31:33 **5** Q. -- for your signature.
 09:31:35 **6** A. Correct.
 09:31:36 **7** Q. Okay. At the time they provide it to you is
 09:31:39 **8** there an Exhibit 1A attached to it?
 09:31:41 **9** A. Yes.
 09:31:42 **10** Q. But we don't have that any more.
 09:31:43 **11** MR. KLUTHO: Counsel, objection; cruelty to
 09:31:46 **12** animals, beating a dead horse. Asked and answered.
 09:31:51 **13** A. What he said.
 09:31:53 **14** Q. We don't have that, do we?
 09:31:55 **15** A. No.
 09:31:55 **16** Q. No.
 09:31:59 **17** Exhibit 11 uses the defined term on each
 09:32:06 **18** Transfer Date, capital D, capital T; correct?
 09:32:10 **19** A. Correct.
 09:32:12 **20** Q. Where is the "transfer date" defined in
 09:32:14 **21** Exhibit 1, Exhibit 11 of the deposition?
 09:32:19 **22** A. There is no definition. The date on this
 09:32:23 **23** document, however, is October 7th, 2015.
 09:32:26 **24** Q. That's the date you signed it.
 09:32:27 **25** A. Correct.

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09:33:34 **1** in Minnesota?
 09:33:35 **2** A. Well I guess when it goes with Exhibit 1A,
 09:33:38 **3** that there's one Andrea H. Ferkingstad.
 09:33:42 **4** Q. But it doesn't say Andrea H. Ferkingstad on
 09:33:44 **5** Exhibit 11, does it?
 09:33:46 **6** A. No.
 09:33:46 **7** MR. KLUTHO: Counsel, did you listen to
 09:33:47 **8** what she just said?
 09:33:50 **9** Q. And we don't have, to discuss, the actual
 09:33:53 **10** Exhibit 1A that was attached to Exhibit 11; do we?
 09:33:59 **11** A. No. But I can tell you with absolute
 09:34:02 **12** certainty it is regarding this same account; Unity
 09:34:06 **13** Hospital 3/23 of 2011.
 09:34:09 **14** Q. Okay. But none of that is in Exhibit 11.
 09:34:12 **15** A. No.
 09:34:13 **16** Q. No.
 09:34:14 **17** So if another of the 37 Ferkingstads in the
 09:34:21 **18** State of Minnesota went into one of the vast numbers
 09:34:26 **19** of Allina Hospitals, there would be more than one
 09:34:29 **20** Ferkingstad account in Allina's system; correct?
 09:34:32 **21** MR. KLUTHO: Object to the form of the
 09:34:33 **22** question, argumentative, vexatious.
 09:34:37 **23** Tell him again how the exhibits go
 09:34:39 **24** together, maybe he'll hear it this time.
 09:34:41 **25** A. So they go together, both of these pages.

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09:32:28 **1** Q. Okay. There's the word "Ferkingstad" that
 09:32:33 **2** appears on Exhibit 11; correct?
 09:32:35 **3** A. It's a name, not a word, but yes.
 09:32:38 **4** Q. Well it's part of a name.
 09:32:39 **5** A. Okay.
 09:32:41 **6** Q. So part of a name appears on Exhibit 11;
 09:32:44 **7** correct?
 09:32:45 **8** A. Ferkingstad appears on Exhibit 11, correct.
 09:32:47 **9** Q. Yeah. And you'd agree with me that's in a
 09:32:51 **10** different size and font than the rest of the document.
 09:32:56 **11** A. Not an expert, but sure, it looks different.
 09:33:00 **12** Q. Okay. Is that a sticker?
 09:33:03 **13** A. No. It's typed on there.
 09:33:07 **14** Q. Why is it typed on there in a different font
 09:33:10 **15** and size?
 09:33:12 **16** MR. KLUTHO: It's exciting, isn't it?
 09:33:13 **17** A. Well my guess, and again I don't prepare
 09:33:15 **18** these documents, so this is a guess on my part, is
 09:33:19 **19** that this is standard, the top section, and then the
 09:33:22 **20** bottom changes with every one that they send to me
 09:33:25 **21** that has a different patient name on it.
 09:33:28 **22** Q. It doesn't have a patient name, does it?
 09:33:29 **23** MR. KLUTHO: It does, counsel.
 09:33:31 **24** A. Ferkingstad is the patient's name.
 09:33:33 **25** Q. Do you know how many Ferkingstads there are

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09:34:44 **1** When I get one, I get a second one that goes with it.
 09:34:48 **2** And so I'll review here's page 1, here's page 2, it
 09:34:52 **3** even lists out my account number which is different
 09:34:55 **4** than Accounts Receivable Services' account number.
 09:34:58 **5** I'll review this account in our system to see, yes, do
 09:35:02 **6** I agree with them, or no, do I not agree with them,
 09:35:05 **7** and then sign Exhibit 11, my signature, that date.
 09:35:15 **8** Q. On Exhibit 12, which is not the actual
 09:35:19 **9** Exhibit 1A, there's a number under Unity Hospital.
 09:35:22 **10** That is the Allina account number?
 09:35:24 **11** A. Correct.
 09:35:27 **12** MR. KLUTHO: Counsel, is this funny?
 09:35:28 **13** A. Visit number, if you want to get specific,
 09:35:31 **14** yes.
 09:35:34 **15** MR. KLUTHO: You keep --
 09:35:34 **16** Q. So if somebody who has an account has more
 09:35:37 **17** than one visit there would be a separate visit number
 09:35:38 **18** there.
 09:35:39 **19** A. Correct.
 09:35:40 **20** MR. KLUTHO: Objection, asked and answered.
 09:35:41 **21** THE WITNESS: Sorry.
 09:35:42 **22** MR. KLUTHO: That's all right.
 09:35:54 **23** Q. When you get Exhibit 1A from ARS is there
 09:36:00 **24** just one account on there, or is there a whole list of
 09:36:05 **25** accounts?

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09:36:05 **1** A. I already answered that as well, and there
 09:36:08 **2** can be depending on the debt for that particular
 09:36:11 **3** patient. There could be one account, there could be a
 09:36:13 **4** whole page of accounts.
 09:36:15 **5** Q. Okay. For Ferkingstad, do you know --
 09:36:18 **6** A. Ferkingstad there is only this one account.
 09:36:20 **7** Q. Well you're looking at the document that's
 09:36:22 **8** not actually Exhibit 1A; correct?
 09:36:24 **9** MR. KLUTHO: Counsel --
 09:36:25 **10** A. As far as I'm concerned it is Exhibit 1A,
 09:36:27 **11** and yes, it's only this one account.
 09:36:30 **12** Q. So if you, on the same October 7th you
 09:36:35 **13** transferred to ARS a debt for Schwiebert --
 09:36:40 **14** A. Umm-hmm.
 09:36:40 **15** Q. -- there would be a separate page entitled
 09:36:44 **16** Exhibit 1A --
 09:36:46 **17** MR. KLUTHO: Objection, --
 09:36:47 **18** Q. -- for Schwiebert.
 09:36:48 **19** MR. KLUTHO: -- you're misrepresenting the
 09:36:50 **20** testimony. There'd be an entirely separate document,
 09:36:53 **21** counsel.
 09:36:53 **22** A. Correct. I'm confused on what you're
 09:36:55 **23** asking.
 09:36:56 **24** Do you have an outstanding debt that you
 09:36:57 **25** want me to look at?

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09:36:58 **1** Q. Here's what I'm trying to figure out.
 09:37:00 **2** Is it a stack of a hundred Exhibit 1's with
 09:37:04 **3** one Exhibit -- this isn't the actual one, but we're
 09:37:06 **4** going to use it as model -- that has a hundred
 09:37:08 **5** accounts on it and you go through each of the Exhibit
 09:37:10 **6** 1's and match and see --
 09:37:12 **7** A. No.
 09:37:12 **8** Q. -- and say yes, --
 09:37:13 **9** MR. KLUTHO: Object --
 09:37:13 **10** A. No.
 09:37:14 **11** Q. -- or they're paired up one-two, for each
 09:37:18 **12** Exhibit 1 that you're presented with?
 09:37:20 **13** MR. KLUTHO: Object to the form of the
 09:37:21 **14** question.
 09:37:21 **15** You do the best you can to explain to him
 09:37:23 **16** how it works.
 09:37:25 **17** THE WITNESS: Okay.
 09:37:25 **18** A. You get Exhibit 1 for whatever patient is
 09:37:28 **19** listed here, in this case Andrea Ferkingstad.
 09:37:30 **20** Q. Right. Just "Ferkingstad."
 09:37:32 **21** MR. KLUTHO: Counsel, stop.
 09:37:32 **22** A. But it is for Andrea; right?
 09:37:34 **23** We know that that's what we're here about?
 09:37:36 **24** Q. I don't know how you know that.
 09:37:38 **25** A. Okay. So --

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09:37:38 **1** MR. KLUTHO: Explain to him again how you
 09:37:40 **2** know that, because he can't hear.
 09:37:42 **3** THE WITNESS: Apparently not.
 09:37:44 **4** A. So I know that because it goes with Exhibit
 09:37:45 **5** 1A and it has Andrea Ferkingstad's name on it. So
 09:37:48 **6** yes, I get page -- Exhibit 11 and Exhibit 12, they go
 09:37:52 **7** together. I sign Exhibit 11 --
 09:37:57 **8** Q. And then you throw away Exhibit 1A.
 09:38:01 **9** A. -- in regards to this.
 09:38:03 **10** MR. KLUTHO: Object to the form of the
 09:38:04 **11** question.
 09:38:04 **12** A. I don't throw it away, no.
 09:38:06 **13** Q. Well if you don't have it, what happened to
 09:38:08 **14** it?
 09:38:11 **15** A. When I look at both of these documents I
 09:38:14 **16** send them both back to Accounts Receivable Services.
 09:38:18 **17** Q. So they should have the Exhibit 1A that's at
 09:38:25 **18** least dated before or on or before October 7th.
 09:38:29 **19** A. Correct.
 09:38:56 **20** Q. Exhibit 13. You're familiar with Exhibit
 09:39:15 **21** 13?
 09:39:15 **22** A. I'm very familiar with it.
 09:39:16 **23** Q. Did you print Exhibit 13?
 09:39:19 **24** A. Well, maybe. This looks exactly like the
 09:39:23 **25** copy that I entered as Exhibit 14, so. Who exactly

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09:39:29 **1** printed this particular copy, I couldn't tell you, but
 09:39:33 **2** I printed one similar that we entered as Exhibit 14.
 09:39:36 **3** Q. Would you rather look at that one, is that
 09:39:38 **4** easier for you?
 09:39:38 **5** A. Well it's a cleaner copy, but no, it's the
 09:39:41 **6** exact same thing, so we can talk about 13.
 09:39:44 **7** Q. This is a screenshot of some account
 09:39:49 **8** information on Allina's computer system; correct?
 09:39:54 **9** A. This is actually what's called an itemized
 09:39:56 **10** bill of Andrea Ferkingstad's account. That "Visit ID"
 09:40:01 **11** number at the top is the same one that matches in
 09:40:03 **12** Exhibit 1A.
 09:40:06 **13** Q. But this was printed from Allina's computer
 09:40:08 **14** system.
 09:40:08 **15** A. Correct.
 09:40:09 **16** Q. Okay. When is the information about the
 09:40:19 **17** patient's accounts transferred to ARS?
 09:40:23 **18** MR. KLUTHO: Don't answer that question.
 09:40:24 **19** With respect to Ms. Ferkingstad's account you can
 09:40:27 **20** answer it.
 09:40:28 **21** THE WITNESS: Okay.
 09:40:30 **22** A. Are you -- I need to ask a clarifying
 09:40:32 **23** question. Are you asking when we sold the debt to
 09:40:34 **24** Accounts Receivable Services?
 09:40:35 **25** Q. No. No.

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09:40:36 **1** A. Or when we transferred it to them to work
 09:40:38 **2** further -- for further collections --
 09:40:40 **3** Q. Neither of those.
 09:40:41 **4** A. -- because it was unpaid.
 09:40:44 **5** Q. You told me that ARS provides you Exhibit 1
 09:40:45 **6** and Exhibit 1A that we don't have, together. They
 09:40:49 **7** print out Exhibit 1A.
 09:40:50 **8** A. Yes.
 09:40:51 **9** Q. That means they have to already have the
 09:40:52 **10** information about the account before Exhibit 1,
 09:40:55 **11** Exhibit 11 of the deposition, --
 09:40:56 **12** A. Correct.
 09:40:57 **13** Q. -- is created.
 09:40:58 **14** A. Correct.
 09:40:58 **15** Q. And you -- your testimony, as I understand
 09:41:01 **16** it, is the debt is not transferred prior to October
 09:41:05 **17** 7th of 2015; correct?
 09:41:07 **18** MR. KLUTHO: Counsel, do you remember at
 09:41:08 **19** the beginning of the deposition where you told her
 09:41:11 **20** you were going to let her answer your questions
 09:41:13 **21** without cutting her off, and you cut her off and she
 09:41:15 **22** was explaining the transfer prior to that date?
 09:41:19 **23** Do you want her to tell you about that or
 09:41:20 **24** not?
 09:41:22 **25** Q. You'd agree with me that it's Allina's
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09:41:25 **1** position that Andrea Ferkingstad's debt was in
 09:41:29 **2** Allina's position on October 6th, 2015; correct?
 09:41:33 **3** MR. KLUTHO: Object to the form of the
 09:41:35 **4** question. In its, what did you say, "position"?
 09:41:38 **5** Q. October 6th, 2015. Possession.
 09:41:41 **6** A. Possession.
 09:41:42 **7** Q. Possession.
 09:41:42 **8** A. Okay. It was still owned by Allina at that
 09:41:45 **9** point. Reliance Recoveries would have been working
 09:41:48 **10** it. Still owned by Allina.
 09:41:55 **11** Q. On October 6th, 2015 the debt is owned by
 09:42:01 **12** Allina.
 09:42:02 **13** MR. KLUTHO: What's so funny, counsel? Why
 09:42:04 **14** do you keep laughing?
 09:42:06 **15** Q. But financial information regarding that
 09:42:08 **16** account has already been given to ARS.
 09:42:13 **17** A. "Financial information," I guess I'm not
 09:42:14 **18** sure what you mean by that, but the account has --
 09:42:17 **19** that information has -- they have been working it.
 09:42:20 **20** Q. What do you mean by "have been working it"?
 09:42:23 **21** A. They would have been actively collecting on
 09:42:25 **22** that account. That's --
 09:42:28 **23** Q. When did that start?
 09:42:33 **24** A. (Witness reviewing Exhibit 14.)
 09:42:36 **25** We referred that account to them on August
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09:42:39 **1** 24th, 2011.
 09:42:42 **2** Q. How do you know that?
 09:42:44 **3** A. Because I looked it up in my computer
 09:42:45 **4** system.
 09:42:50 **5** Q. Somebody at Allina decided, on October 24th
 09:42:53 **6** of 2011, to transfer -- well to allow ARS to work on
 09:43:01 **7** Ms. Ferkingstad's account.
 09:43:03 **8** A. Correct.
 09:43:04 **9** Q. Is there any agreement that provides for
 09:43:05 **10** that?
 09:43:06 **11** A. We have a Business Associates Agreement with
 09:43:12 **12** Accounts Receivable Services.
 09:43:14 **13** Q. And pursuant to that Business Associates
 09:43:23 **14** Agreement --
 09:43:23 **15** MR. KLUTHO: Counsel, what's so funny?
 09:43:25 **16** Q. -- ARS has --
 09:43:26 **17** MR. KLUTHO: Would you stop laughing?
 09:43:27 **18** Q. -- access to the account information from
 09:43:30 **19** Allina's financial system; correct?
 09:43:33 **20** A. Correct.
 09:43:34 **21** Q. And that's how, according to your testimony,
 09:43:36 **22** they're able to print out the Exhibit 1A that was
 09:43:41 **23** actually attached to Exhibit 11.
 09:43:45 **24** A. They -- They were working the debt, so I
 09:43:47 **25** guess I'm confused by your question.
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09:43:49 **1** Q. Well they don't own the debt yet.
 09:43:52 **2** A. Correct.
 09:43:52 **3** Q. But they have to have access to your
 09:43:55 **4** financial system to print out the Exhibit 1A to attach
 09:44:00 **5** it to Exhibit 11 for your signature; --
 09:44:06 **6** A. Yes.
 09:44:07 **7** Q. -- correct?
 09:44:07 **8** A. We send them an electronic file with the
 09:44:11 **9** accounts that we're asking them to work for further
 09:44:14 **10** collections, and so they have a system that they work
 09:44:18 **11** out of as well for doing their collections work.
 09:44:29 **12** Is that what you're getting at?
 09:44:34 **13** Q. When --
 09:44:36 **14** It uses the term "Reliance Recoveries," but
 09:44:38 **15** we understand that's ARS. When ARS prints the Exhibit
 09:44:41 **16** 1A, are they printing it from their system, or are
 09:44:45 **17** they printing it from Allina's system?
 09:44:48 **18** A. From their system.
 09:44:49 **19** Q. Okay. Which contains information that
 09:44:51 **20** Allina has already given them.
 09:44:52 **21** A. Correct.
 09:44:53 **22** Q. Who makes the decision when a particular
 09:44:56 **23** account, in this example the Ferkingstad account, is
 09:44:59 **24** going to move from ARS working that account to a Bill
 09:45:04 **25** of Sale?
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09:45:07 **1** A. ARS makes that suggestion that at that point
 09:45:12 **2** they have worked it as far as they can with their
 09:45:14 **3** tools, so at that point the Bill of Sale is suggested.
 09:45:33 **4** Q. On Exhibit 13, which is the Allina Health --
 09:45:38 **5** A. Itemized bill.
 09:45:41 **6** Q. -- from Allina's financial records.
 09:45:44 **7** A. Correct.
 09:45:47 **8** Q. We have the account for Andrea N.
 09:45:52 **9** Ferkingstad; correct?
 09:45:54 **10** A. Correct.
 09:45:55 **11** Q. Okay. And on November 10th of 2015 there's
 09:46:03 **12** an adjustment that is made to this account for "BAD
 09:46:11 **13** DEBT FINAL REFERRAL A" in the amount of \$696.47;
 09:46:21 **14** correct?
 09:46:22 **15** A. Correct.
 09:46:24 **16** Q. If Exhibit 13 had been printed --
 09:46:27 **17** Oh. And if you turn the page we see that
 09:46:32 **18** the balance in Exhibit 13 on the Andrea Ferkingstad
 09:46:36 **19** account as of at least October -- I'm sorry --
 09:46:42 **20** November 10th, 2015 is zero.
 09:46:44 **21** MR. KLUTHO: Counsel, I again object to
 09:46:46 **22** your continued laughter. Please refrain from
 09:46:51 **23** laughing. Can you do that for me?
 09:46:54 **24** A. Yes.
 09:46:57 **25** Q. If Exhibit 13 had been printed on November
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09:49:03 **1** Q. I asked a question that was limited to
 09:49:05 **2** Allina.
 09:49:06 **3** Did you talk to ARS, did you talk to the
 09:49:08 **4** people who do your accounting software, did you talk
 09:49:10 **5** to anyone in preparation to testify on topic number 9
 09:49:13 **6** besides counsel?
 09:49:15 **7** A. Yes.
 09:49:15 **8** Q. Who?
 09:49:17 **9** A. Bonnie Drennen.
 09:49:20 **10** Q. When did that conversation take place?
 09:49:23 **11** A. Thursday.
 09:49:24 **12** Q. Last Thursday.
 09:49:25 **13** A. Correct.
 09:49:26 **14** Q. How long was that conversation?
 09:49:28 **15** A. I don't remember.
 09:49:30 **16** Q. Did you meet face to face or over the phone?
 09:49:33 **17** A. We met face to face.
 09:49:34 **18** Q. Where was the meeting?
 09:49:35 **19** A. In this office.
 09:49:42 **20** Q. What did Ms. Dresden [ph] tell you in
 09:49:47 **21** preparation for your testimony regarding Exhibit
 09:49:50 **22** number 9?
 09:49:51 **23** MR. KLUTHO: First I'm going to object, her
 09:49:53 **24** name is Drennen, not Dresden. Secondly, I
 09:49:56 **25** represented both those individuals, and I met with
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 09:47:01 **1** 9th, 2015 there would still be a balance of \$696.47;
 09:47:08 **2** correct?
 09:47:08 **3** A. Correct.
 09:47:26 **4** MR. KLUTHO: Would you like to ask her why?
 09:47:39 **5** Q. Exhibit Number 5 is a list of topics for the
 09:47:42 **6** 30(b)(6) deposition; correct?
 09:47:54 **7** A. Correct.
 09:47:56 **8** Q. Are you prepared to testify on behalf of
 09:47:58 **9** Allina Health Systems on each of those topics?
 09:48:03 **10** A. Yes.
 09:48:07 **11** Q. Let's start with topic number 9.
 09:48:17 **12** A. Okay.
 09:48:17 **13** Q. What did you do to prepare to testify on
 09:48:19 **14** topic number 9?
 09:48:23 **15** A. I reviewed Exhibit 11 and 12.
 09:48:30 **16** Q. Anything else?
 09:48:33 **17** A. No.
 09:48:34 **18** Q. Other than talking to counsel, did you speak
 09:48:35 **19** to anybody else at Allina regarding topic number 9?
 09:48:44 **20** A. "Exhibit 1 - Bill of Sale." No. My boss is
 09:48:46 **21** aware I'm here today, but not particularly about Bill
 09:48:49 **22** of Sale.
 09:48:51 **23** Q. Other than counsel, did you speak to anyone
 09:48:53 **24** in preparation to testify on topic number 9?
 09:49:02 **25** A. No.
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 09:49:58 **1** them to get ready for this fishing expedition that
 09:50:02 **2** we're on right now, and everything we talked about is
 09:50:05 **3** protected by the attorney-client privilege.
 09:50:05 **4** BY MR. SCHWIEBERT:
 09:50:09 **5** Q. Understanding I'm not looking for anything
 09:50:11 **6** said to or from counsel, please tell me everything
 09:50:15 **7** that you said and Ms. Drennen said during that
 09:50:20 **8** conversation.
 09:50:21 **9** MR. KLUTHO: Same objection.
 09:50:23 **10** A. I don't remember specifically. We reviewed
 09:50:25 **11** all of these documents.
 09:50:32 **12** Q. Did you review any other documents?
 09:50:34 **13** A. No.
 09:50:37 **14** Q. Did Ms. Drennen tell you anything about
 09:50:44 **15** Exhibit 1 the Bill of Sale?
 09:50:47 **16** A. No.
 09:50:51 **17** Q. Topic number 10: The Purchase of Business
 09:50:56 **18** Agreement as of October 7th, 2015 referenced in
 09:51:00 **19** Exhibit 1 - Bill of Sale.
 09:51:03 **20** What'd you do to prepare to testify on that
 09:51:05 **21** topic?
 09:51:06 **22** A. Reviewed the Blanket Purchase Agreement. Do
 09:51:08 **23** you want me to tell you which exhibit number that is?
 09:51:14 **24** We've discussed it a lot. Exhibit 7.
 09:51:19 **25** Q. Did you do anything else?
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09:51:22 **1** A. No.
 09:51:22 **2** Q. Other than talking with counsel did you
 09:51:24 **3** speak with anyone to prepare to testify on topic
 09:51:26 **4** number 10?
 09:51:28 **5** A. No.
 09:51:30 **6** Q. When did you join Allina?
 09:51:32 **7** A. 2002.
 09:51:35 **8** Q. How long have you been in your current
 09:51:37 **9** position?
 09:51:40 **10** A. Six years.
 09:51:44 **11** Q. So 2011?
 09:51:47 **12** A. Sounds about right.
 09:51:56 **13** Q. I may have already asked you this, I
 09:51:58 **14** apologize if I did.
 09:51:59 **15** Did you do anything else to prepare on topic
 09:52:01 **16** number 10?
 09:52:02 **17** A. No.
 09:52:03 **18** Q. Topic number 11. The, quote, Exhibit 1A --
 09:52:12 **19** redacted attached hereto as Exhibit F.
 09:52:14 **20** What did you did to prepare to testify on
 09:52:16 **21** that topic?
 09:52:16 **22** A. Reviewed the document.
 09:52:18 **23** Q. Did you speak to anybody else in preparation
 09:52:20 **24** to testify on that topic?
 09:52:21 **25** A. Not other than what we've already discussed,
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09:52:23 **1** no.
 09:52:27 **2** Q. Other than counsel, did you speak to anybody
 09:52:30 **3** specific to the Exhibit 1A redacted?
 09:52:34 **4** A. I feel like we already talked about that we
 09:52:36 **5** discussed the whole packet of documents at that
 09:52:38 **6** meeting on Thursday.
 09:52:41 **7** Q. Did Ms. Drennen tell you anything
 09:52:43 **8** specifically related to Exhibit 12, the Exhibit 1A
 09:52:46 **9** redacted?
 09:52:48 **10** A. No.
 09:52:48 **11** Q. Do you know how it's been redacted?
 09:52:52 **12** A. Well they all say redacted, so my assumption
 09:52:56 **13** is that it's redacted specific to the Ferkingstad
 09:53:00 **14** account. If she had other debts owed I would guess
 09:53:06 **15** that they'd be listed there too.
 09:53:08 **16** Q. But you don't know anything that's actually
 09:53:10 **17** been redacted off of the version of Exhibit 1A that
 09:53:14 **18** you looked at when you signed the Bill of Sale.
 09:53:16 **19** A. Correct.
 09:53:18 **20** Q. It is correct that you don't know that
 09:53:20 **21** anything was redacted off of it.
 09:53:21 **22** A. Yes, counsel.
 09:53:32 **23** Q. Exhibit 12: "The billing records attached
 09:53:36 **24** hereto as Exhibit G," I affectionately call the Bad
 09:53:41 **25** Debt Final Referral document.

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09:53:43 **1** A. Umm-hmm.
 09:53:44 **2** Q. What did you do to prepare to testify on
 09:53:45 **3** that topic?
 09:53:46 **4** MR. KLUTHO: I'll object to the form of the
 09:53:47 **5** question.
 09:53:48 **6** Q. Let me rephrase.
 09:53:49 **7** What did you do to prepare to testify on
 09:53:50 **8** topic number 12?
 09:53:52 **9** A. I reviewed the document that was included,
 09:53:55 **10** and I also reviewed Ferkingstad's account in our
 09:53:59 **11** system.
 09:54:01 **12** Q. Did you bring any printouts of the account
 09:54:04 **13** in your system for -- to assist you in today's
 09:54:07 **14** testimony?
 09:54:08 **15** A. Yes, Exhibit 14.
 09:54:09 **16** Q. Did you review anything else besides Exhibit
 09:54:11 **17** 14?
 09:54:11 **18** A. I reviewed the history of the account.
 09:54:14 **19** Q. Okay. But you didn't bring a history of the
 09:54:16 **20** account with you other than what appears in Exhibit
 09:54:18 **21** 14.
 09:54:18 **22** MR. KLUTHO: You haven't looked at the
 09:54:20 **23** Exhibit 14.
 09:54:21 **24** A. I'd say I just handwrote some notes for my
 09:54:24 **25** own reference.

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09:54:26 **1** Q. Okay. What do the handwritten notes
 09:54:28 **2** reflect?
 09:54:29 **3** A. The handwritten notes reflect the different
 09:54:32 **4** letters that we sent to Andrea Ferkingstad and the
 09:54:35 **5** date that we sent them, and then when we referred the
 09:54:38 **6** account to ARS for collections, further collections.
 09:54:49 **7** Q. Did you do anything else to prepare to
 09:54:50 **8** testify on topic number 12?
 09:54:52 **9** A. No.
 09:54:55 **10** Q. Did you speak to anyone, besides counsel, in
 09:54:58 **11** preparing to testify on topic number 12?
 09:55:00 **12** A. No.
 09:55:11 **13** Q. The Suit Authorization and Assignment
 09:55:14 **14** document, topic number 7, which is Deposition Exhibit
 09:55:34 **15** Number 8.
 09:55:35 **16** A. Eight.
 09:55:39 **17** Q. As I understand your testimony, it is not
 09:55:42 **18** Allina's position that Exhibit 8 transferred the debt
 09:55:47 **19** from Allina to ARS; correct?
 09:55:49 **20** A. Correct.
 09:55:59 **21** Q. Exhibit 8 is dated October 7th of 2015;
 09:56:04 **22** correct?
 09:56:05 **23** A. Correct.
 09:56:06 **24** Q. Why is this document being approved by you
 09:56:12 **25** on the same day as the Bill of Sale -- Exhibit 1, Bill

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09:56:17 **1** of Sale document, Exhibit Number 11?

09:56:22 **2 A.** I'm confused. What do you mean, "why"?

09:56:26 **3 Q.** Why did you --

09:56:26 **4 A.** Are you asking why did I sign them on the

09:56:29 **5** same day?

09:56:30 **6** MR. KLUTHO: No. What's its effect is what

09:56:31 **7** he's asking you.

09:56:31 **8 Q.** No.

09:56:32 **9 A.** Oh.

09:56:32 **10 Q.** It's not -- It's not signed by Allina.

09:56:34 **11** There's a blank. Allina never signed it; correct?

09:56:37 **12** MR. KLUTHO: No. It is her signature.

09:56:38 **13 A.** Well "ALLINA HEALTH APPROVED BY," and J.

09:56:41 **14** Fountain is me.

09:56:42 **15 Q.** Okay. So there are two blanks for

09:56:44 **16** signature, one for Allina Health, and one for an

09:56:46 **17** approved by; correct?

09:56:47 **18** MR. KLUTHO: Object to the form of the

09:56:48 **19** question, counsel. You can interpret it any way you

09:56:49 **20** want. There's one signature, one place to sign, she

09:56:53 **21** signed it. Quit fighting it.

09:56:57 **22 A.** I signed this document, yes.

09:56:58 **23 Q.** Under the blank for "approved by."

09:57:00 **24 A.** Correct.

09:57:01 **25 Q.** Nobody signed it on the blank for Allina
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09:57:03 **1** Health; correct?

09:57:05 **2 A.** I don't take that as a blank for there, I

09:57:07 **3** take it as "Allina Health Approved By," and me. So

09:57:11 **4** yes, however you want to interpret that, there's only

09:57:18 **5** one signature, it's mine.

09:57:19 **6 Q.** On the line "APPROVED BY."

09:57:21 **7** MR. KLUTHO: Oh my gosh.

09:57:22 **8 A.** Yes.

09:57:23 **9 Q.** Okay. So why on October 7th are we --

09:57:27 **10** Let me ask it this way: Which gets signed

09:57:29 **11** first, Deposition Exhibit 11 or Deposition Exhibit 8?

09:57:40 **12 A.** They go together. I sign them both

09:57:43 **13** together. So as far as which one I sign first, I

09:57:47 **14** couldn't actually tell you.

09:57:51 **15 Q.** If, as Allina intends, Exhibit 11

09:57:57 **16** transfers -- sells, I'm sorry, Ms. Ferkingstad's

09:58:04 **17** account from Allina to ARS, why is Exhibit 8 signed by

09:58:08 **18** you?

09:58:12 **19 A.** At the time I thought that we needed to have

09:58:14 **20** a Suit Authorization as well as the Bill of Sale

09:58:18 **21** signed. Standard operating procedure was to sign both

09:58:35 **22** documents.

09:58:35 **23 Q.** Why?

09:58:40 **24 A.** Why not? It --

09:58:41 **25 Q.** Why is that the standard operating
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09:58:43 **1** procedure?

09:58:43 **2** MR. KLUTHO: Counsel, do you keep cutting

09:58:45 **3** her off on purpose?

09:58:48 **4 Q.** I apologize if I cut you off. Please

09:58:50 **5** complete your answer.

09:58:51 **6 A.** Okay. From my interpretation, we wanted

09:58:56 **7** both documents signed kind of as a cover yourself

09:58:59 **8** answer. So they're going to conciliation court

09:59:06 **9** thinking we'd need this signed by Allina as well.

09:59:16 **10 Q.** Exhibits 11 and 8 are signed by you knowing

09:59:19 **11** that ARS is going to conciliation court.

09:59:25 **12 A.** The -- That's my assumption. Now there

09:59:28 **13** could be circumstances where they choose not to, and

09:59:31 **14** because we've sold them that debt that's their right.

09:59:34 **15 Q.** But your understanding of why you're signing

09:59:37 **16** Exhibits 11 is so that ARS can go to conciliation

09:59:43 **17** court.

09:59:45 **18 A.** Yes.

09:59:47 **19 Q.** And your --

09:59:48 **20 A.** They can further -- further their collection

09:59:50 **21** efforts. We're selling them the debt so they can

09:59:52 **22** further it, whatever they're doing with that.

09:59:54 **23 Q.** And you understand that that further step is

09:59:58 **24** going to conciliation court.

09:59:59 **25 A.** Yes.
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10:00:10 **1 Q.** And the standard operating procedure so that

10:00:14 **2** ARS can go to conciliation court is to sign both an

10:00:19 **3** Exhibit 1 Bill of Sale and a Suit Authorization and

10:00:21 **4** Assignment document.

10:00:23 **5 A.** Correct.

10:00:29 **6 Q.** Is ARS a division of Allina Health?

10:00:31 **7 A.** I wouldn't say it's a division.

10:00:33 **8 Q.** Is ARS a wholly-owned subsidiary of Allina

10:00:36 **9** Health?

10:00:36 **10 A.** Sounds about right.

10:00:39 **11 Q.** Do you know why the document calls them a

10:00:41 **12** division?

10:00:46 **13 A.** Honestly, probably because we didn't know a

10:00:48 **14** lawyer was going to tear it apart some day.

10:00:51 **15 Q.** Did you draft --

10:00:54 **16 A.** I did not draft that document, no.

10:00:56 **17 Q.** Where did you get this document? I mean, I

10:00:58 **18** understand it's printed for your signature from --

10:01:00 **19** Well I guess I didn't ask you that.

10:01:01 **20** ARS prints, for your signature, Exhibit

10:01:05 **21** Number 8?

10:01:05 **22 A.** Correct.

10:01:13 **23 Q.** Are there enclosed accounts with Exhibit 8?

10:01:19 **24 A.** It's the same exhibit that we keep going

10:01:21 **25** back and forth on, they'd be together.
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10:01:23 **1** MR. KLUTHO: Exhibit 11?

10:01:25 **2** A. Exhibit 11.

10:01:25 **3** Q. So we know it can't be Exhibit 11 because

10:01:28 **4** that's not printed by October 7th of 2015; correct?

10:01:33 **5** MR. KLUTHO: What?

10:01:36 **6** MR. SCHWIEBERT: Oh, I'm sorry.

10:01:37 **7** BY MR. SCHWIEBERT:

10:01:38 **8** Q. Exhibit 8 makes reference to "accounts

10:01:43 **9** accompanying this suit authorization and agreement" at

10:01:45 **10** the top; correct?

10:01:46 **11** A. Correct.

10:01:46 **12** Q. And it makes reference to the assignment of

10:01:52 **13** the right, title and interest in the enclosed

10:01:55 **14** accounts.

10:01:55 **15** A. Correct.

10:01:58 **16** Q. Was there something attached to Exhibit 8?

10:02:01 **17** A. Exhibit 1A.

10:02:04 **18** Q. Okay. But we know Exhibit 1A is not what

10:02:06 **19** was attached to Exhibit 8 because Exhibit 8 was signed

10:02:11 **20** by you on October 7th of 2015, and Exhibit 12,

10:02:18 **21** entitled "EXHIBIT 1A," doesn't exist on that date;

10:02:22 **22** correct?

10:02:22 **23** A. Correct. And as I stated before, really all

10:02:25 **24** I care about when I'm looking at these documents is

10:02:28 **25** this account number that says Unity Hospital and what

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10:03:45 **1** Reliance tried to collect on it, she didn't pay it.

10:03:49 **2** Then we sold it to Accounts Receivable Services. Any

10:03:52 **3** way you want to slice it, that's how it happened.

10:03:55 **4** Q. The word "FERKINGSTAD" appears on this

10:03:59 **5** document as well.

10:04:02 **6** A. I'll go again that it's a name, not a word.

10:04:02 **7** Q. Okay.

10:04:04 **8** A. If I used that in Scrabble, it wouldn't

10:04:07 **9** count.

10:04:08 **10** Q. The last name Ferkingstad appears on this

10:04:09 **11** document; correct?

10:04:10 **12** A. Correct.

10:04:11 **13** Q. All right. If you look at Exhibit 11 next

10:04:13 **14** to it, you'd agree with me that the Ferkingstad last

10:04:18 **15** name that appears on Exhibit 8 and 11 are the same

10:04:22 **16** font and size; correct?

10:04:24 **17** MR. KLUTHO: We'll stipulate.

10:04:26 **18** MR. SCHWIEBERT: Excellent.

10:04:26 **19** MR. KLUTHO: Move on.

10:04:27 **20** Q. And you'd agree with me that the last name

10:04:30 **21** Ferkingstad that appears on Exhibit 8 is not the same

10:04:33 **22** font or size as the text that appears in Exhibit 8;

10:04:37 **23** correct?

10:04:38 **24** MR. KLUTHO: Objection. The document

10:04:39 **25** speaks for itself.

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10:02:30 **1** the principal balance is. And that -- regardless of

10:02:35 **2** where the interest might have changed after I had

10:02:38 **3** reviewed this account it's still the same principal

10:02:40 **4** balance and the same account number. And so yes, it

10:02:43 **5** was in reference to that document.

10:02:55 **6** Q. The bold text at the bottom above the date

10:02:58 **7** says, in all bold, "ATTACHED HERETO IS A TRUE AND

10:03:02 **8** CORRECT ACCOUNT STATEMENT REFLECTING THE BALANCE DUE

10:03:06 **9** AND OWING AS OF THE DATE SET FORTH BELOW."

10:03:10 **10** A. Correct.

10:03:11 **11** Q. Okay. But there is nothing attached to

10:03:15 **12** Exhibit 8; correct?

10:03:16 **13** MR. KLUTHO: Well counsel, I'm going to

10:03:18 **14** object. You have not attached anything to it, but it

10:03:20 **15** was at the time, so please stop.

10:03:22 **16** A. Yes. 1A was attached.

10:03:24 **17** MR. KLUTHO: Are you listening to what

10:03:25 **18** she's saying?

10:03:26 **19** Q. Allina has not provided a copy of what was

10:03:28 **20** attached to this document at the time that it was

10:03:30 **21** signed; correct?

10:03:31 **22** A. Correct. Again, it would be the same --

10:03:37 **23** it's really semantics that you're getting into. It's

10:03:40 **24** the same account. This is the account that your

10:03:42 **25** client owed as a debt. We tried to collect on it,

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10:04:44 **1** A. I'm confused on what you're asking me to

10:04:46 **2** look at.

10:04:47 **3** Q. Exhibit 8 --

10:04:47 **4** MR. KLUTHO: He's asking you to compare

10:04:49 **5** fonts and things like that. You're not here to do

10:04:51 **6** this.

10:04:51 **7** Move on. This is vexatious. We'll make a

10:04:55 **8** motion later on. If you want to make a motion to

10:04:57 **9** compel over whether or not these documents speak for

10:04:59 **10** themselves or don't, be my guest. Move on.

10:05:02 **11** She's not answering any more questions

10:05:04 **12** about your Ferkingstad fonts.

10:05:07 **13** Q. There is text in Exhibit 8 that's both in

10:05:12 **14** bold and not in bold; correct?

10:05:13 **15** A. Yes.

10:05:14 **16** Q. Okay. I read you a part of it that was in

10:05:18 **17** bold; --

10:05:18 **18** A. Yes.

10:05:19 **19** Q. -- correct?

10:05:19 **20** You'd agree with me that where the last name

10:05:23 **21** "FERKINGSTAD" appears at the top of the document is

10:05:27 **22** different in its appearance than the text that's in

10:05:32 **23** bold above your signature; correct?

10:05:34 **24** MR. KLUTHO: Counsel, did you hear me? I

10:05:35 **25** said "move on." She's not going to answer any more

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10:05:38 **1** questions about your Ferkingstad typing -- font face,
 10:05:43 **2** typeface, whatever you want to call it. Move on.
 10:05:45 **3** MR. SCHWIEBERT: Are you instructing her
 10:05:46 **4** not to answer?
 10:05:47 **5** MR. KLUTHO: I did, and then you asked more
 10:05:49 **6** questions about it.
 10:05:50 **7** MR. SCHWIEBERT: Are you instructing her
 10:05:51 **8** not to answer --
 10:05:51 **9** MR. KLUTHO: Yes.
 10:05:52 **10** MR. SCHWIEBERT: -- on the basis of
 10:05:52 **11** privilege?
 10:05:52 **12** MR. KLUTHO: On the basis of it's stupid.
 10:05:56 **13** MR. SCHWIEBERT: Are you bringing your
 10:05:56 **14** motion now?
 10:05:57 **15** MR. KLUTHO: No. I'm not going to waste
 10:06:00 **16** the Court's time on this, you are.
 10:06:16 **17** BY MR. SCHWIEBERT:
 10:06:16 **18** Q. Do you have the original of Exhibit 8 in
 10:06:20 **19** your files?
 10:06:20 **20** A. No, I do not.
 10:06:23 **21** Q. You gave it to ARS.
 10:06:24 **22** A. Correct.
 10:06:28 **23** Q. And I think you told me that, but I just
 10:06:32 **24** want to make sure the record's clear.
 10:06:34 **25** You also don't have the original of your
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10:08:21 **1** 2nd, 2016; correct?
 10:08:24 **2** A. Correct.
 10:08:24 **3** Q. And that is your signature that appears on
 10:08:26 **4** the document; correct?
 10:08:27 **5** A. That is my signature, yes.
 10:08:29 **6** Q. Do you know why you provided this
 10:08:34 **7** declaration on December 2nd of 2016?
 10:08:38 **8** MR. KLUTHO: I asked her to.
 10:08:41 **9** A. Because Michael asked me to.
 10:08:50 **10** Q. Did you draft Exhibit Number 9?
 10:08:53 **11** A. No.
 10:08:53 **12** Q. It was provided to you for your signature.
 10:08:56 **13** A. Correct. For review and signature, yes.
 10:09:00 **14** Q. Okay. So what did you do in your review
 10:09:02 **15** prior to signing it?
 10:09:05 **16** A. Reviewed the information on it and didn't
 10:09:11 **17** catch a typo.
 10:09:17 **18** Q. You signed this affidavit under penalty of
 10:09:21 **19** perjury; correct?
 10:09:22 **20** A. Correct.
 10:09:22 **21** Q. What does that mean to you?
 10:09:25 **22** A. You go to jail for lying.
 10:09:29 **23** Q. Did you make a --
 10:09:30 **24** A. Right?
 10:09:31 **25** Q. -- false statement in the declaration?
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10:06:36 **1** signed version of Exhibit 11; correct?
 10:06:38 **2** A. Correct.
 10:06:38 **3** Q. That would also be in ARS's possession.
 10:06:41 **4** MR. KLUTHO: Asked and answered.
 10:06:41 **5** A. Correct.
 10:07:08 **6** Q. Exhibit 9. Oh, before we do that.
 10:07:15 **7** Looking back at Exhibit 5, which is the list
 10:07:18 **8** of deposition topics. It's Exhibit --
 10:07:34 **9** A. Oh, I get it. They're just all over the
 10:07:37 **10** place.
 10:07:37 **11** Okay. Got it.
 10:07:38 **12** Q. What'd you do to prepare to testify on topic
 10:07:41 **13** number 8?
 10:07:43 **14** A. Reviewed Exhibit 9 and 10.
 10:07:51 **15** Q. Did you do anything else?
 10:07:52 **16** A. No.
 10:07:53 **17** Q. Talk to anybody to prepare to testify on
 10:07:55 **18** topic number 8, other than counsel?
 10:07:58 **19** A. Right. No.
 10:08:00 **20** Q. All right. Exhibit 9 --
 10:08:04 **21** I apologize, I'm --
 10:08:06 **22** A. No. We're good.
 10:08:12 **23** Q. -- is your declaration; correct?
 10:08:15 **24** A. Yes.
 10:08:16 **25** Q. And it's your declaration dated December
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10:09:33 **1** A. Yes. There is a typo in this declaration.
 10:09:35 **2** Q. The declaration says --
 10:09:37 **3** It's in paragraph 6; correct?
 10:09:39 **4** A. Correct.
 10:09:40 **5** Q. And it says that --
 10:09:46 **6** MR. KLUTHO: Do you want her just to tell
 10:09:48 **7** you --
 10:09:48 **8** A. I was going to say --
 10:09:48 **9** MR. KLUTHO: -- what the error was?
 10:09:49 **10** A. -- the error is the date of October 14th
 10:09:51 **11** instead of October 7th, and that's why there is an
 10:09:54 **12** existence of Exhibit 10 that has the correct date in
 10:09:58 **13** it.
 10:10:00 **14** Q. Paragraph 6 of your declaration, --
 10:10:03 **15** A. Exhibit 9.
 10:10:03 **16** Q. -- Exhibit 9, is wrong; correct?
 10:10:05 **17** A. Correct.
 10:10:19 **18** Q. Paragraph 2.
 10:10:24 **19** A. Okay.
 10:10:25 **20** Q. Allina makes its entries into its books and
 10:10:29 **21** records in the ordinary course of business
 10:10:34 **22** contemporaneous with the transaction giving rise to
 10:10:37 **23** the entry; correct?
 10:10:39 **24** A. Sure.
 10:10:39 **25** Q. That's not a --
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10:10:41 **1** That's not a false statement.
 10:10:42 **2 A.** No.
 10:10:43 **3 Q.** Okay. So a transaction occurs --
 10:10:46 **4 A.** Yep.
 10:10:47 **5 Q.** -- and then Allina, contemporaneously, makes
 10:10:52 **6** the entry into their books and records.
 10:10:56 **7 A.** Yes.
 10:10:58 **8 Q.** You're telling us you have -- you're
 10:10:59 **9** personally familiar with that process; correct?
 10:11:01 **10 A.** Yes.
 10:11:02 **11 Q.** And the word "contemporaneous" means "on or
 10:11:05 **12** about the same time."
 10:11:06 **13 A.** Sure.
 10:11:07 **14 Q.** Okay. Exhibit 10.
 10:11:15 **15** MR. KLUTHO: This is getting exciting.
 10:11:19 **16** THE WITNESS: Like, the word
 10:11:20 **17** "contemporaneous" is only one a lawyer would use.
 10:11:23 **18** Kind of like vexatious, Michael. Just saying.
 10:11:28 **19** (Laughter.)
 10:11:28 **20** THE WITNESS: Or maybe Bonnie, because
 10:11:30 **21** she's got a Words with Friends.
 10:11:36 **22** BY MR. SCHWIEBERT:
 10:11:36 **23 Q.** Exhibit Number 10 is also a declaration of
 10:11:38 **24** yours; correct?
 10:11:39 **25 A.** Correct.
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10:12:34 **1** THE WITNESS: I'm sorry, Debby.
 10:12:35 **2** THE REPORTER: That's okay.
 10:12:36 **3 A.** Yes.
 10:12:37 **4 Q.** And again the entries are made in the
 10:12:39 **5** ordinary course of business contemporaneous with the
 10:12:42 **6** transfer giving rise to each entity; correct?
 10:12:44 **7 A.** Yes.
 10:12:45 **8 Q.** On or about --
 10:12:45 **9** MR. KLUTHO: Each entry.
 10:12:46 **10 Q.** -- the time the transaction took place;
 10:12:48 **11** correct?
 10:12:49 **12 A.** Yes.
 10:12:51 **13 Q.** Now in paragraph 5 we have a new statement,
 10:12:57 **14** different from your prior testimony under oath, that
 10:12:59 **15** the account was assigned and sold on October 7th of
 10:13:07 **16** 2015.
 10:13:10 **17** MR. KLUTHO: Yes.
 10:13:10 **18 A.** Yes. We've answered that a billion times.
 10:13:13 **19** MR. KLUTHO: We will stipulate to that.
 10:13:15 **20 Q.** Okay. Is there a reason why the language
 10:13:17 **21** changed from "sold and transferred" to "assigned and
 10:13:21 **22** sold" between -- on --
 10:13:22 **23 A.** To me that's semantics. It's the same
 10:13:24 **24** thing. We sold them the debt on October 7th, 2015.
 10:13:27 **25** Whichever fancy words you lawyers want to put in front
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10:11:41 **1 Q.** This one is made on May 11th, 2017.
 10:11:46 **2 A.** Correct.
 10:11:48 **3 Q.** Do you know why you signed this declaration?
 10:11:52 **4** MR. KLUTHO: I asked her to because you
 10:11:54 **5** made a big point about the typographical error.
 10:11:56 **6 A.** I was going to say I would guess because we
 10:11:59 **7** made a typo in the first one and that's why there's a
 10:12:01 **8** second declaration.
 10:12:02 **9 Q.** You realized that Exhibit Number 9, your
 10:12:06 **10** testimony under penalty of perjury, was false.
 10:12:09 **11** MR. KLUTHO: She made a mistake, counsel.
 10:12:11 **12 A.** Correct.
 10:12:11 **13** MR. KLUTHO: Move on.
 10:12:13 **14 A.** Again, it was a typo, October 14 and 7, yes.
 10:12:18 **15 Q.** So six months later you signed a second
 10:12:20 **16** declaration.
 10:12:21 **17 A.** Correct.
 10:12:21 **18 Q.** Okay. And again you're telling us that
 10:12:23 **19** you're personally famil -- paragraph 2, you're
 10:12:25 **20** personally familiar with the books and records of
 10:12:28 **21** Allina.
 10:12:28 **22 A.** Umm-hmm.
 10:12:30 **23 Q.** You have --
 10:12:30 **24** THE REPORTER: Your answer, please?
 10:12:32 **25 A.** Yes. Sorry.
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10:13:30 **1** of it, that's what happened.
 10:13:31 **2 Q.** So when you use the expression in Exhibit
 10:13:35 **3** Number 9, "sold and transferred," you mean "sold."
 10:13:39 **4** MR. KLUTHO: Sold.
 10:13:40 **5 A.** Yes.
 10:13:41 **6 Q.** Okay. And when you --
 10:13:42 **7** Just trying to figure out if some -- there's
 10:13:44 **8** -- because the words have changed. I'm trying to
 10:13:46 **9** figure out why they've changed.
 10:13:48 **10** Now, in Exhibit 10, six months later, it's
 10:13:50 **11** not being transferred, it's being assigned.
 10:13:52 **12** MR. KLUTHO: Tell him again what you just
 10:13:54 **13** said so we can move on.
 10:13:55 **14 Q.** And what you mean by that is "sold."
 10:13:57 **15 A.** Sold, yes.
 10:14:02 **16 Q.** And you make reference to three documents
 10:14:05 **17** which were attached to this declaration, --
 10:14:08 **18 A.** Right.
 10:14:09 **19 Q.** -- Exhibits A, 1A and B; correct?
 10:14:12 **20 A.** Right, right, right.
 10:14:13 **21 Q.** And we know that that is Exhibits 11, now
 10:14:18 **22** Deposition Exhibit 11, 12 and 13.
 10:14:21 **23 A.** Correct.
 10:14:26 **24 Q.** Why didn't you ask ARS for the actual
 10:14:29 **25** Exhibit 1A?
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10:14:32 **1** MR. KLUTHO: Why, counsel?

10:14:33 **2** **A.** Why would I need it? Maybe that's the

10:14:36 **3** question that I should ask you.

10:14:39 **4** **Q.** You didn't feel that it was important to

10:14:41 **5** have the actual Exhibit 1A that was attached at the

10:14:44 **6** time you signed it.

10:14:46 **7** **A.** No, because again the principal balance was

10:14:48 **8** the same. Whatever interest gets charged from as

10:14:52 **9** they're collecting on it is -- I don't see that, and

10:14:56 **10** it -- to me the principal balance is what I am

10:14:58 **11** reviewing. Principal balance is what we are selling.

10:15:10 **12** And that did not change.

10:15:13 **13** **Q.** Paragraph 6. The Bill of Sale was drafted

10:15:16 **14** by the parties prior to October 7th of 2015.

10:15:21 **15** Did I read that correctly?

10:15:21 **16** **A.** You did.

10:15:22 **17** **Q.** Who drafted the Bill of Sale?

10:15:25 **18** **A.** ARS.

10:15:27 **19** **Q.** I know ARS printed it. Did they also draft

10:15:29 **20** the document?

10:15:30 **21** **A.** Yes.

10:15:32 **22** **Q.** Then it says the document is completed and

10:15:34 **23** signed by both parties; correct?

10:15:39 **24** **A.** It does say that, yes.

10:15:40 **25** **Q.** Is the Bill of Sale signed by both parties?

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10:16:39 **1** contemporaneous is on or about. I don't think it has

10:16:41 **2** an exact this same day. But we signed -- I signed

10:16:43 **3** that document on October 7th, 2015.

10:16:52 **4** **Q.** Paragraph 7. "Plaintiff's account as

10:17:04 **5** detailed in Exhibit 1A" -- and we know that the 1A

10:17:08 **6** that's attached to your declaration is Exhibit 12 --

10:17:17 **7** "was sold and assigned by Allina to ARS at the time

10:17:20 **8** the Bill of Sale was executed."

10:17:23 **9** Did I read it correctly?

10:17:25 **10** **A.** You did.

10:17:25 **11** **Q.** It's your testimony that the Bill of Sale

10:17:27 **12** was executed on October 7th, 2015.

10:17:30 **13** **A.** Correct.

10:17:31 **14** **Q.** But we know Exhibit 1A, Exhibit 12 of the

10:17:35 **15** deposition, didn't exist on October 7th, 2015;

10:17:39 **16** correct?

10:17:39 **17** MR. KLUTHO: Objection, argumentative,

10:17:42 **18** asked and answered. We're not going to do it again.

10:17:45 **19** MR. SCHWIEBERT: Are you instructing her

10:17:47 **20** not to answer?

10:17:47 **21** MR. KLUTHO: Yes.

10:17:48 **22** MR. SCHWIEBERT: Are you instructing her

10:17:51 **23** not to answer on the basis of privilege?

10:17:52 **24** MR. KLUTHO: It's stupid. You've asked

10:17:54 **25** this five times, she's probably told you ten times.

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10:15:43 **1** **A.** It's just signed by me.

10:15:46 **2** **Q.** It's a false statement in your declaration.

10:15:48 **3** MR. KLUTHO: Objection, argumentative.

10:15:50 **4** Don't answer the question. That's offensive,

10:15:53 **5** counsel.

10:15:53 **6** **Q.** You're wrong; correct?

10:15:55 **7** **A.** Sure.

10:15:56 **8** MR. KLUTHO: Same objection.

10:16:03 **9** **Q.** And then you use this contemporaneous

10:16:06 **10** language in paragraph 6, that it was completed and

10:16:11 **11** signed by both parties contemporaneous with the sale

10:16:15 **12** of the account.

10:16:16 **13** Did it actually happen on October 7th?

10:16:20 **14** **A.** The sale?

10:16:21 **15** **Q.** Allina's position is you signed the document

10:16:24 **16** on --

10:16:24 **17** **A.** October 7th.

10:16:25 **18** **Q.** -- October 7th.

10:16:26 **19** **A.** Correct.

10:16:27 **20** **Q.** So when you use the term "contemporaneous"

10:16:30 **21** in paragraph 6 you're talking about the same day.

10:16:34 **22** MR. KLUTHO: Objection, --

10:16:35 **23** **A.** I was going to say --

10:16:36 **24** MR. KLUTHO: -- argumentative.

10:16:37 **25** **A.** -- we've already talked about that

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10:17:57 **1** Tell him one more time.

10:17:58 **2** **A.** There was a 1A attached at the time I signed

10:18:00 **3** it. It might not be the exact copy you have there.

10:18:02 **4** But again, the principal balance for that account from

10:18:05 **5** Unity Hospital was the same. That is the document

10:18:08 **6** that I reviewed.

10:18:09 **7** **Q.** Okay. But you attached one to your

10:18:11 **8** declaration.

10:18:12 **9** **A.** Right. And it was that same one, Exhibit 11

10:18:15 **10** or whatever it is now.

10:18:16 **11** **Q.** 12?

10:18:16 **12** **A.** 12.

10:18:18 **13** **Q.** And the one that you attached to your

10:18:19 **14** declaration, contrary to what you say in paragraph

10:18:24 **15** number 7 --

10:18:25 **16** MR. KLUTHO: That's not what paragraph 7

10:18:26 **17** says, counsel.

10:18:28 **18** **Q.** -- didn't exist at the time the Bill of Sale

10:18:30 **19** was executed; correct?

10:18:31 **20** MR. KLUTHO: Object to the form. Read the

10:18:33 **21** statement, counsel. "Plaintiff's account."

10:18:36 **22** **A.** As detailed in Exhibit 1A was sold and

10:18:39 **23** assigned to ARS.

10:18:39 **24** To me that's exactly what happened. That

10:18:42 **25** particular account was sold and assigned to Allina --

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10:18:45 **1** by Allina to ARS.
 10:18:49 **2** **Q.** But the document you attached to your
 10:18:51 **3** declaration doesn't exist at the time the Bill of Sale
 10:18:55 **4** was executed; correct?
 10:18:56 **5** **A.** It existed. We're just not able to
 10:19:00 **6** reproduce it for you. I don't know. I don't know
 10:19:02 **7** what else you want me to say with that.
 10:19:03 **8** **Q.** The 1A you attached to your declaration is
 10:19:06 **9** not a 1A that existed at the time the Bill of Sale was
 10:19:08 **10** executed.
 10:19:10 **11** **A.** Sure. We can go with that language.
 10:19:13 **12** **MR. KLUTHO:** And she's not going to answer
 10:19:15 **13** that question again.
 10:19:22 **14** **Q.** Paragraph 8. You say Plaintiff's account
 10:19:28 **15** was sold and assigned by Allina to ARS on October 7th,
 10:19:33 **16** 2015 along with other accounts, and accounts
 10:19:37 **17** receivables of other individuals not at issue here.
 10:19:39 **18** Is that a true statement?
 10:19:41 **19** **A.** That's a true statement.
 10:19:42 **20** **Q.** Okay. How many other accounts were sold and
 10:19:46 **21** assigned by Allina to ARS on October 7th of 2015?
 10:19:50 **22** **MR. KLUTHO:** Objection, irrelevant.
 10:19:52 **23** **A.** I do not know.
 10:19:59 **24** **Q.** You told me ARS paid to get the Ferkingstad
 10:20:03 **25** account. I presume --
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10:20:59 **1** Now I'm not in our accounting department,
 10:21:01 **2** that's not my specialty. So as far as I know there is
 10:21:08 **3** a by-account fee that ARS pays Allina for purchasing
 10:21:14 **4** debt.
 10:21:18 **5** **Q.** But you don't know how that account is
 10:21:20 **6** determined.
 10:21:21 **7** **A.** Correct.
 10:21:22 **8** **Q.** Somebody in your accounting department would
 10:21:24 **9** know the answer to that.
 10:21:26 **10** **A.** Yes.
 10:21:29 **11** **Q.** Do you know if there's a agreement that
 10:21:32 **12** governs how that's determined?
 10:21:34 **13** **A.** We already talked about it's the Blanket --
 10:21:36 **14** Blanket Purchase Agreement.
 10:21:37 **15** **Q.** There's no price in the Blanket Purchase
 10:21:39 **16** Agreement.
 10:21:39 **17** **A.** Right.
 10:21:40 **18** **Q.** So is there any agreement that does tell us
 10:21:43 **19** how much they pay for it?
 10:21:45 **20** **A.** Not that I'm aware of. Not to say it
 10:21:57 **21** doesn't exist.
 10:21:58 **22** **Q.** Paragraph 9. "A unique Bill of Sale is
 10:22:00 **23** created and signed for each person whose account is
 10:22:03 **24** being sold and assigned from Allina to ARS, which is
 10:22:07 **25** evidenced by the fact that 'Ferkingstad' is typed on
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10:20:06 **1** Well let me ask the question this way: Do
 10:20:08 **2** they pay for every account that gets sold to them?
 10:20:10 **3** **A.** Yes.
 10:20:11 **4** **Q.** Are they sold in a bundle? Well are they --
 10:20:16 **5** **A.** I was going to say that's hard to answer
 10:20:18 **6** that way.
 10:20:19 **7** **Q.** Okay.
 10:20:19 **8** **A.** Every account is individual. They will
 10:20:22 **9** batch together a number of accounts for me to review
 10:20:26 **10** at one time.
 10:20:30 **11** **Q.** Since we don't know the actual number --
 10:20:32 **12** **A.** Umm-hmm.
 10:20:32 **13** **Q.** -- let's assume, for the purpose of this
 10:20:34 **14** question, --
 10:20:34 **15** **A.** Umm-hmm.
 10:20:35 **16** **Q.** -- and it's an assumption, that the
 10:20:38 **17** hypothetical number of other accounts transferred that
 10:20:39 **18** day was nine, so we have a total of ten.
 10:20:41 **19** **A.** Sure.
 10:20:42 **20** **Q.** Okay. Does ARS pay one amount of money for
 10:20:45 **21** all ten accounts, or do they pay an amount of money
 10:20:49 **22** for each individual account, one of which was
 10:20:54 **23** plaintiff's account?
 10:20:54 **24** **A.** My understanding is they pay individually
 10:20:57 **25** for each account.
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10:22:10 **1** the top of the Bill of Sale at issue here."
 10:22:13 **2** Did I read it correctly?
 10:22:16 **3** **A.** You did.
 10:22:16 **4** **Q.** Is that a true statement?
 10:22:17 **5** **MR. KLUTHO:** Well let's see --
 10:22:19 **6** **A.** It's at this bottom, not the top.
 10:22:21 **7** **MR. KLUTHO:** Boy.
 10:22:22 **8** **Q.** So the statement in paragraph number 9 is
 10:22:23 **9** false.
 10:22:24 **10** **MR. KLUTHO:** Score one for Ferkingstad.
 10:22:27 **11** **Q.** Correct?
 10:22:27 **12** **A.** Correct.
 10:22:37 **13** Again, semantics.
 10:22:51 **14** **Q.** Then we have paragraph number 10. And in
 10:22:57 **15** paragraph number 10 we're talking about the bad debt
 10:23:01 **16** final referral.
 10:23:02 **17** **A.** Correct.
 10:23:03 **18** **Q.** And you -- your affidavit, or declaration --
 10:23:11 **19** your declaration states that the account is
 10:23:17 **20** administratively deleted from Allina's accounting
 10:23:20 **21** software; correct?
 10:23:23 **22** **A.** Correct.
 10:23:25 **23** **MR. KLUTHO:** It says other things, but
 10:23:26 **24** those words are on there, counsel.
 10:23:29 **25** **Q.** Okay. So let's start with that.
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10:23:34 **1** Ms. Ferkingstad's account still exists in
 10:23:37 **2** Allina's accounting software after November 10th of
 10:23:43 **3** 2015, the date on Exhibit 13; correct?
 10:23:46 **4** **A.** Correct.
 10:23:46 **5** **Q.** Because it's printed including an adjustment
 10:23:49 **6** that happened on November 10th of 2015; correct?
 10:23:52 **7** MR. KLUTHO: Counsel, I am really offended
 10:23:54 **8** by your continued laughter. You need to stop it.
 10:23:58 **9** Can you stop it?
 10:23:59 **10** **Q.** Do you understand the question?
 10:24:02 **11** **A.** Yes.
 10:24:03 **12** **Q.** And the answer is "yes," the account is
 10:24:05 **13** still in Allina's accounting software.
 10:24:09 **14** **A.** Correct.
 10:24:14 **15** **Q.** Somebody in the accounting department goes
 10:24:17 **16** in and enters an adjustment; correct?
 10:24:21 **17** **A.** No. Someone in Revenue Cycle enters
 10:24:23 **18** adjustment, it's not even a person, it's done
 10:24:25 **19** electronically, but yes. An adjustment gets entered
 10:24:28 **20** in her account that changes that balance to zero that
 10:24:40 **21** you referenced on page 2 of 13.
 10:24:50 **22** **Q.** It's an automated process?
 10:24:52 **23** **A.** Correct.
 10:25:02 **24** **Q.** Why is --
 10:25:04 **25** First of all, what does "bad debt final
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10:25:07 **1** referral A" mean?
 10:25:09 **2** **A.** That is the code in our system that we use
 10:25:11 **3** to adjust the balances off that have been sold to
 10:25:15 **4** Accounts Receivable Services. So that 696 dollars
 10:25:31 **5** matches the principal balance that's on Exhibit 1A
 10:25:35 **6** that you keep talking about.
 10:25:48 **7** **Q.** Why didn't the adjustment happen on or about
 10:25:52 **8** October 7th of 2015?
 10:25:55 **9** **A.** Because we have an automated process in
 10:25:58 **10** place, so after I sign all of these documents and send
 10:26:03 **11** them back to Accounts Receivable Services, they update
 10:26:06 **12** it in their system, whatever they do, and then we get
 10:26:12 **13** an electronic file back from them every month on the
 10:26:16 **14** 10th of the month with the accounts that they have now
 10:26:20 **15** purchased and it automatically writes off in our
 10:26:23 **16** system. So the 10th of November would have been
 10:26:30 **17** everything that happened in October gets posted to the
 10:26:34 **18** account on the 10th of November.
 10:26:36 **19** **Q.** Why didn't you get it on the 10th of
 10:26:38 **20** October?
 10:26:38 **21** MR. KLUTHO: You didn't listen to her
 10:26:40 **22** answer, did you?
 10:26:41 **23** Say it again.
 10:26:42 **24** THE WITNESS: It's always going to be the
 10:26:44 **25** month after. So when I sign it, they do all their
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10:26:48 **1** things and then that -- the 10th of the next month is
 10:26:51 **2** when the file runs in our system.
 10:26:53 **3** **Q.** Who created this system?
 10:26:57 **4** **A.** Our IS team.
 10:26:59 **5** **Q.** But, I mean, who made the decision to leave
 10:27:02 **6** accounts on Allina's books until the 10th of the month
 10:27:06 **7** following the transaction?
 10:27:10 **8** **A.** I don't know who made that decision.
 10:27:18 **9** **Q.** Does Allina still have the electronic file
 10:27:21 **10** that would have come back from ARS on the 10th of
 10:27:25 **11** November, 2015?
 10:27:26 **12** MR. KLUTHO: Object to the form of the
 10:27:28 **13** question. That's not what she testified to.
 10:27:30 **14** **Q.** You get an electronic file from them.
 10:27:32 **15** **A.** Right. I would assume from -- back from
 10:27:34 **16** 2015 we would not still have that electronic file, no.
 10:27:56 **17** MR. KLUTHO: Do you need a pen?
 10:27:58 **18** MR. SCHWIEBERT: I'm trying to figure out
 10:27:59 **19** what time it is.
 10:28:00 **20** MR. KLUTHO: It's 10:30.
 10:28:03 **21** THE WITNESS: Ten thirty.
 10:28:04 **22** MR. SCHWIEBERT: Why don't we take about a
 10:28:07 **23** five-minute break.
 10:28:09 **24** THE REPORTER: We are off the record.
 10:28:10 **25** (Recess taken from 10:28 to 10:35 a.m.)
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10:35:07 **1** BY MR. SCHWIEBERT:
 10:35:08 **2** **Q.** Exhibit 5, list of topics.
 10:35:10 **3** **A.** Yep.
 10:35:10 **4** **Q.** Topic number 1.
 10:35:11 **5** **A.** Okay.
 10:35:12 **6** **Q.** What did you do to prepare to testify on
 10:35:14 **7** this topic?
 10:35:15 **8** MR. KLUTHO: Objection, counsel. United
 10:35:18 **9** States Code 28, Section 1927, vexatious litigation.
 10:35:22 **10** The Court has indicated you get to learn about what's
 10:35:26 **11** going on, date and time when the representation was
 10:35:31 **12** made with respect to this account involving Ms.
 10:35:34 **13** Ferkingstad. This request is asking about
 10:35:37 **14** relationships going back six years. If you want to
 10:35:41 **15** ask her what the relationship was at the time this
 10:35:44 **16** representation was made, go for it. Beyond that
 10:35:47 **17** she's not going to answer any questions.
 10:35:49 **18** MR. SCHWIEBERT: Are you instructing her
 10:35:50 **19** not to answer questions relating to topic number 1?
 10:35:53 **20** MR. KLUTHO: No. I just told you that she
 10:35:55 **21** would.
 10:35:55 **22** BY MR. SCHWIEBERT:
 10:35:55 **23** **Q.** What did you do to prepare to testify on
 10:35:57 **24** topic number 1?
 10:35:58 **25** **A.** Nothing.
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10:35:59 **1** Q. What'd you do to prepare to testify on topic
 10:36:01 **2** number 2?
 10:36:05 **3** MR. KLUTHO: Same objection.
 10:36:06 **4** A. Nothing. This is my standard course of
 10:36:09 **5** business.
 10:36:13 **6** Q. Did you talk to anyone besides counsel
 10:36:15 **7** regarding topic number 1?
 10:36:17 **8** A. No.
 10:36:18 **9** Q. Did you talk to anyone besides counsel
 10:36:21 **10** regarding topic number 2?
 10:36:23 **11** A. No. We've -- The conversation we had last
 10:36:26 **12** Thursday covered all of these topics.
 10:36:30 **13** Q. Did you have any --
 10:36:31 **14** Was there any specific part of your
 10:36:33 **15** conversation that related to topic number 1?
 10:36:35 **16** A. No, --
 10:36:35 **17** Q. And the conversation --
 10:36:36 **18** A. -- not that I can remember.
 10:36:39 **19** Q. -- you're referring to is the conversation
 10:36:40 **20** with Ms. Drennen.
 10:36:41 **21** A. Correct.
 10:36:42 **22** Q. Is there any specific part of your
 10:36:43 **23** conversation with Ms. Drennen last Thursday that
 10:36:47 **24** prepared you to testify on topic number 2?
 10:36:50 **25** A. No. But she did just tell me that we sold
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10:38:19 **1** BY MR. SCHWIEBERT:
 10:38:24 **2** Q. Ms. Fountain, have you ever seen Exhibit 15
 10:38:26 **3** before?
 10:38:26 **4** A. No.
 10:38:27 **5** Q. Do you know what Exhibit 15 is?
 10:38:29 **6** A. Well, according to this it's the "Annual
 10:38:32 **7** Financial Disclosure Statement Year Ended December
 10:38:33 **8** 31st, 2015."
 10:38:35 **9** Q. So it would be the Allina Health's Financial
 10:38:39 **10** Disclosure Statement for the year ending in which you
 10:38:43 **11** allege that the debt at issue was sold to ARS;
 10:38:48 **12** correct?
 10:38:48 **13** MR. KLUTHO: First off, counsel, I'm going
 10:38:50 **14** to make several objections. Number one, the witness
 10:38:52 **15** has said she's never seen this document. Number two,
 10:38:55 **16** you've not asked Allina to come testify about this
 10:38:58 **17** document. Number three, this document speaks for
 10:39:00 **18** itself. And depending on what you're going to ask,
 10:39:05 **19** there's likely going to be an instruction and there
 10:39:07 **20** are going to be no answers to these questions.
 10:39:09 **21** Do you have a question about this document,
 10:39:11 **22** counsel?
 10:39:13 **23** MR. SCHWIEBERT: Are you done? I don't
 10:39:16 **24** want to cut you off.
 10:39:16 **25** Are you done making your record?
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10:36:52 **1** that for 25 cents on the dollar. That's our agreement
 10:36:56 **2** with them.
 10:36:57 **3** Q. Okay. My question is your preparation for
 10:37:00 **4** the deposition.
 10:37:01 **5** A. Okay.
 10:37:02 **6** Q. I appreciate you telling me...
 10:37:04 **7** A. Well I'm telling you...
 10:37:09 **8** Q. Topic number 3. What'd you do to prepare to
 10:37:12 **9** testify on topic number 3?
 10:37:14 **10** MR. KLUTHO: Same objection.
 10:37:15 **11** A. And same answer. That's -- Nothing.
 10:37:21 **12** Q. What'd you do to prepare to testify on topic
 10:37:23 **13** number 4?
 10:37:24 **14** MR. KLUTHO: Same objection.
 10:37:26 **15** A. And same answer.
 10:37:29 **16** Q. And that answer is?
 10:37:31 **17** A. Nothing.
 10:37:32 **18** Q. What'd you do to prepare to testify on topic
 10:37:34 **19** number 5?
 10:37:36 **20** MR. KLUTHO: Same objection. I believe
 10:37:38 **21** you've already asked it as well, counsel.
 10:37:40 **22** A. And same. Nothing. Reviewed the documents
 10:37:45 **23** that were set forth that we've already talked about.
 10:37:47 **24** That's it.
 10:38:19 **25** (Exhibit 15 marked for identification.)
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10:39:19 **1** MR. KLUTHO: I just asked: Do you have a
 10:39:21 **2** question about this? That was a question to you, and
 10:39:23 **3** then you give a response. That's how it works.
 10:39:25 **4** BY MR. SCHWIEBERT:
 10:39:26 **5** Q. My last question was: This is for the
 10:39:28 **6** fiscal year ending --
 10:39:29 **7** MR. KLUTHO: Okay.
 10:39:30 **8** Q. -- December 31st, 2015, which is the year in
 10:39:33 **9** which Allina, you, testified that this debt was
 10:39:38 **10** allegedly transferred to ARS; correct?
 10:39:39 **11** MR. KLUTHO: Object as argumentative. It
 10:39:41 **12** speaks for itself. On behalf of my client, ARS,
 10:39:47 **13** we'll stipulate that that's what that document says,
 10:39:50 **14** and so it must be that, counsel.
 10:39:52 **15** MR. SCHWIEBERT: Excellent.
 10:39:53 **16** BY MR. SCHWIEBERT:
 10:39:54 **17** Q. If you can turn one, two, three, four pages
 10:39:57 **18** in to the page numbered 2 at the bottom. Do you see
 10:40:02 **19** that document?
 10:40:04 **20** MR. KLUTHO: Yeah.
 10:40:06 **21** Do you see this page?
 10:40:07 **22** MR. SCHWIEBERT: You don't get to answer.
 10:40:08 **23** A. I -- Yes, I see that page.
 10:40:10 **24** MR. KLUTHO: I'm just seeing this for the
 10:40:11 **25** first time, counsel.
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10:40:13 **1** THE WITNESS: Me too. Me too.
 10:40:24 **2** (Exhibit 16 marked for identification.)
 10:40:24 **3** BY MR. SCHWIEBERT:
 10:40:27 **4** **Q.** You'd agree with me that Exhibit 16 is an
 10:40:31 **5** exact copy of page number 2 of Exhibit 15; correct?
 10:40:36 **6** MR. KLUTHO: Stipulated. Move on.
 10:40:43 **7** **Q.** In Exhibit 16, Allina, in its financial
 10:40:47 **8** statement, states that Accounts Receivable Services,
 10:40:54 **9** LLC is a subsidiary of Allina Health; correct?
 10:40:58 **10** MR. KLUTHO: Well you didn't really read it
 10:41:00 **11** correctly, but do you want to read what it says?
 10:41:03 **12** **A.** "Additional subsidiaries of Allina Health
 10:41:06 **13** include Accounts Receivable Services, LLC, a limited
 10:41:09 **14** liability company providing debt collection and other
 10:41:12 **15** financial services, and seven foundations."
 10:41:13 **16** MR. KLUTHO: That's what the document says.
 10:41:15 **17** **Q.** ARS is a subsidiary of Allina Health;
 10:41:17 **18** correct?
 10:41:17 **19** MR. KLUTHO: That's what the document says,
 10:41:19 **20** counsel.
 10:41:19 **21** **Q.** Then there's an organizational chart;
 10:41:21 **22** correct?
 10:41:21 **23** **A.** Correct.
 10:41:22 **24** **Q.** And the organizational chart is as of
 10:41:28 **25** December 31st, 2015; correct?
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10:42:09 **1** we're not going to give any more testimony about this
 10:42:11 **2** document, counsel. Show me where it is in your
 10:42:14 **3** notice that you asked to have testimony about this
 10:42:17 **4** document.
 10:42:18 **5** MR. SCHWIEBERT: Are you instructing the
 10:42:19 **6** witness not to answer any --
 10:42:20 **7** MR. KLUTHO: No, I'm asking you a question.
 10:42:21 **8** THE WITNESS: The witness is telling you
 10:42:22 **9** that she is not comfortable talking with this
 10:42:25 **10** document.
 10:42:30 **11** **Q.** You're uncomfortable looking at Allina
 10:42:33 **12** Health Systems --
 10:42:33 **13** MR. KLUTHO: We're done with this document.
 10:42:35 **14** **Q.** -- organizational chart?
 10:42:37 **15** **A.** Yes.
 10:42:37 **16** MR. KLUTHO: We're done with this document.
 10:42:37 **17** **Q.** Do you have some reason to believe that
 10:42:39 **18** Allina is not accurate in its organizational chart?
 10:42:41 **19** MR. KLUTHO: Don't answer that question.
 10:42:43 **20** We're done with this document, done with this
 10:42:45 **21** questioning for all the reasons I've articulated.
 10:42:47 **22** Move on, counsel.
 10:42:47 **23** **A.** I've already told you I'm not discussing it.
 10:42:50 **24** **Q.** Okay. My question was: Do you have some
 10:42:52 **25** reason to believe it's not accurate?
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10:41:31 **1** **A.** Correct.
 10:41:31 **2** MR. KLUTHO: That's what the document says.
 10:41:33 **3** **Q.** Based on revenue provided to Allina;
 10:41:35 **4** correct?
 10:41:37 **5** MR. KLUTHO: Counsel, this witness does not
 10:41:39 **6** have the foundation to testify about this document.
 10:41:41 **7** **A.** Correct. Correct.
 10:41:43 **8** **Q.** You can look at Allina Health System's
 10:41:47 **9** financial records and you can determine things from
 10:41:48 **10** those records; correct?
 10:41:49 **11** MR. KLUTHO: No, you might be able to.
 10:41:51 **12** This witness is disqualified from this. She says --
 10:41:53 **13** THE WITNESS: Correct.
 10:41:53 **14** MR. KLUTHO: -- she doesn't have the
 10:41:53 **15** foundation.
 10:41:54 **16** THE WITNESS: I don't feel comfortable
 10:41:55 **17** answering your questions regarding this document.
 10:41:58 **18** BY MR. KLUTHO:
 10:41:58 **19** **Q.** Well, let's see what it says.
 10:41:59 **20** MR. KLUTHO: No.
 10:41:59 **21** **Q.** Account --
 10:42:00 **22** MR. KLUTHO: You're wasting our time about
 10:42:02 **23** an exhibit that was not --
 10:42:05 **24** You've not asked Allina, who is not a party
 10:42:06 **25** to this case, to come testify about this document, so
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10:42:53 **1** MR. KLUTHO: I've instructed you not to
 10:42:54 **2** answer. Stop.
 10:42:56 **3** MR. SCHWIEBERT: You making your motion
 10:42:57 **4** now?
 10:42:57 **5** MR. KLUTHO: No, counsel.
 10:42:59 **6** MR. SCHWIEBERT: Okay.
 10:42:59 **7** **Q.** Page 16 --
 10:42:59 **8** MR. KLUTHO: I'm not going to waste the
 10:43:00 **9** time.
 10:43:01 **10** **Q.** -- of the document.
 10:43:02 **11** MR. KLUTHO: We're not going to answer any
 10:43:04 **12** questions about this document. This witness is not
 10:43:06 **13** prepared to answer any questions about this document.
 10:43:07 **14** She does not have the foundation to do that. She's
 10:43:10 **15** disqualified herself. You've not listed this as an
 10:43:13 **16** -- as a item of inquiry.
 10:43:17 **17** **Q.** Are you unwilling to go to page 16 of the
 10:43:19 **18** document?
 10:43:19 **19** **A.** I am unwilling.
 10:43:23 **20** MR. KLUTHO: We're unwilling to go to any
 10:43:25 **21** of the pages in this document, counsel.
 10:43:30 **22** THE WITNESS: If you want to talk about the
 10:43:31 **23** debt that your client incurred with us and didn't pay
 10:43:34 **24** it, I am your person; but talking about the
 10:43:35 **25** financials for Allina, I am not your person.
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10:43:38 **1** Q. You understand that the financials that are
 10:43:39 **2** transferred between Allina and ARS are in Allina's
 10:43:42 **3** financial documents; correct? Including their
 10:43:45 **4** disclosure statement.
 10:43:45 **5** MR. KLUTHO: Objection, lack of foundation.
 10:43:47 **6** A. I'm not answering anything related to that
 10:43:50 **7** document.
 10:43:53 **8** Q. Has the relationship between Allina and ARS
 10:43:57 **9** changed in the last six years?
 10:43:59 **10** MR. KLUTHO: Object to the question, it's
 10:44:01 **11** beyond the scope of what the court has indicated is
 10:44:03 **12** still --
 10:44:03 **13** A. Relationships change --
 10:44:04 **14** MR. KLUTHO: -- is still in issue here.
 10:44:06 **15** THE WITNESS: Sorry, Michael.
 10:44:07 **16** A. Relationships change all the time.
 10:44:09 **17** Specifically I couldn't tell you.
 10:44:10 **18** Q. In December 2015 ARS is a wholly-owned
 10:44:15 **19** subsidiary of Allina; correct?
 10:44:18 **20** A. Correct.
 10:44:18 **21** Q. Okay. In 2009 were they a wholly-owned
 10:44:25 **22** subsidiary of Allina?
 10:44:26 **23** MR. KLUTHO: Objection, lack of foundation.
 10:44:27 **24** A. I wouldn't know.
 10:44:30 **25** [Document provided to counsel.]
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10:45:32 **1** Q. Did you review Exhibit 15 in preparation for
 10:45:34 **2** today's deposition?
 10:45:35 **3** A. No.
 10:45:35 **4** Q. Did you --
 10:45:39 **5** Exhibit 17 is Allina -- it even says it
 10:45:45 **6** is -- it's Allina Health System's "Annual Financial
 10:45:50 **7** Disclosure Statement" earlier in time, for year ended
 10:45:52 **8** December 31st, 2009; correct?
 10:45:54 **9** MR. KLUTHO: Counsel, the document speaks
 10:45:56 **10** for itself. This witness has indi --
 10:45:58 **11** Do you have foundation to be able to talk
 10:46:00 **12** about this information --
 10:46:00 **13** THE WITNESS: No.
 10:46:00 **14** MR. KLUTHO: -- in this Exhibit 17.
 10:46:02 **15** THE WITNESS: No.
 10:46:02 **16** MR. KLUTHO: Move on.
 10:46:02 **17** BY MR. SCHWIEBERT:
 10:46:04 **18** Q. You'd agree with me that's what the first
 10:46:06 **19** page of the document says.
 10:46:06 **20** MR. KLUTHO: Move on.
 10:46:07 **21** A. I agree that that's the first page of the
 10:46:09 **22** document.
 10:46:10 **23** Q. Okay. And if you move through to page
 10:46:12 **24** number 2 at the bottom -- and I will tell you I didn't
 10:46:15 **25** copy all 85 pages of it, okay? So this is actually a
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10:44:30 **1** MR. KLUTHO: Counsel, we're not going to
 10:44:31 **2** answer any questions about this exhibit. You're
 10:44:33 **3** certainly welcome to mark it.
 10:44:46 **4** (Exhibit 17 marked for identification.)
 10:44:46 **5** MR. KLUTHO: Exhibit 17 is not on the list
 10:44:48 **6** of topics that counsel has asked non-party Allina to
 10:44:51 **7** come and testify about. The continued questioning
 10:44:55 **8** about these topics that were not asked to be prepared
 10:44:58 **9** for is vexatious, especially with respect to a
 10:45:02 **10** non-party. Counsel's been instructed by this witness
 10:45:06 **11** that she doesn't feel comfortable talking about the
 10:45:08 **12** financial situation with regard to Allina, that's not
 10:45:11 **13** her role. And --
 10:45:11 **14** Q. Did you --
 10:45:14 **15** MR. KLUTHO: -- he continues.
 10:45:15 **16** Q. Did you review --
 10:45:16 **17** MR. KLUTHO: And for that reason, we
 10:45:17 **18** object.
 10:45:19 **19** MR. SCHWIEBERT: I'm sorry. I didn't mean
 10:45:20 **20** to cut you off. Are you done?
 10:45:22 **21** MR. KLUTHO: Yeah. When I -- words stop
 10:45:23 **22** coming out of my mouth, that's when I'm finished.
 10:45:26 **23** When the words are coming out and you keep talk --
 10:45:28 **24** you talk over me, that's when I'm not finished.
 10:45:31 **25** BY MR. SCHWIEBERT:
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10:46:19 **1** bigger document. I've only taken the first so many
 10:46:22 **2** pages of it.
 10:46:23 **3** But if you flip through to the page that's
 10:46:25 **4** got number 2 at the bottom.
 10:46:26 **5** A. No.
 10:46:26 **6** MR. KLUTHO: Counsel, I'm not sure what's
 10:46:28 **7** funny.
 10:46:28 **8** A. I'm not talking about the financials of
 10:46:30 **9** Allina, --
 10:46:31 **10** Q. Okay. There's an organizational chart --
 10:46:32 **11** A. -- that's not my role.
 10:46:34 **12** Q. -- that shows the relationship --
 10:46:34 **13** A. No.
 10:46:34 **14** MR. KLUTHO: I'm instructing you not to
 10:46:36 **15** answer, and I'm instructing you to move on --
 10:46:37 **16** MR. SCHWIEBERT: Are you bringing your
 10:46:38 **17** motion now?
 10:46:39 **18** MR. KLUTHO: -- for all of the reasons that
 10:46:40 **19** I've articulated to you, counsel.
 10:46:42 **20** I'm going to bring the motion at the end.
 10:46:47 **21** I don't want to have to bring, you know, 25 motions
 10:46:50 **22** about the things that you're doing, counsel. You
 10:46:54 **23** know better.
 10:46:55 **24** BY MR. SCHWIEBERT:
 10:46:55 **25** Q. Did you review any organizational charts for
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10:47:01 **1** Allina in preparation to testify on the relationship
 10:47:04 **2** between ARS and Allina, topic number 1?
 10:47:08 **3** **A.** No, I did not.
 10:47:47 **4** (Exhibit 18 marked for identification.)
 10:47:47 **5** MR. KLUTHO: Maybe I'm not being clear,
 10:47:49 **6** counsel. This witness doesn't have the foundation to
 10:47:51 **7** testify about these documents and she's not going to
 10:47:54 **8** do that.
 10:47:54 **9** Do you have the foundation to testify --
 10:47:54 **10** THE WITNESS: No.
 10:47:56 **11** MR. KLUTHO: -- about this document?
 10:47:57 **12** THE WITNESS: No.
 10:47:57 **13** MR. KLUTHO: "No." Move on.
 10:47:59 **14** BY MR. SCHWIEBERT:
 10:47:59 **15** **Q.** Exhibit 18 is the -- is an excerpt, I didn't
 10:48:02 **16** print the whole thing again, of the Annual Financial
 10:48:06 **17** Disclosure Statement for the year ended December 31st,
 10:48:08 **18** 2016 for Allina Health; correct?
 10:48:12 **19** MR. KLUTHO: Counsel, the document speaks
 10:48:14 **20** for itself. This document was not a document that
 10:48:17 **21** you asked this witness to come here to testify about.
 10:48:21 **22** Allina is a non-party witness and it has rights.
 10:48:24 **23** You've limited the scope, the Court has
 10:48:27 **24** limited the scope. You won't stop, though. It's
 10:48:30 **25** like you're the energizer bunny, just keep beating
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10:48:34 **1** and beating that debt horse. Please move on.
 10:48:37 **2** **Q.** Turn to page 2 of that document?
 10:48:39 **3** **A.** No.
 10:49:18 **4** **Q.** Exhibit 6.
 10:49:37 **5** **A.** All right.
 10:49:43 **6** **Q.** You understand that Exhibit 6 is an
 10:49:47 **7** Agreement that was signed by Allina on, it looks like,
 10:50:02 **8** April 11th of 2012.
 10:50:06 **9** MR. KLUTHO: Counsel --
 10:50:06 **10** (Interruption by the reporter.)
 10:50:06 **11** MR. KLUTHO: Counsel, the document speaks
 10:50:07 **12** for itself.
 10:50:15 **13** **Q.** I think you're looking at the page where the
 10:50:17 **14** Attorney General and the Court signed it. Turn back
 10:50:19 **15** one more page.
 10:50:21 **16** **A.** Okay.
 10:50:23 **17** **Q.** Allina executes this Agreement -- actually
 10:50:28 **18** Kenneth Paulus, as the president and CEO of Allina
 10:50:33 **19** Health Systems, executed this Agreement on, it looks
 10:50:36 **20** like, April 11th, 2012.
 10:50:38 **21** **A.** That's what --
 10:50:38 **22** MR. KLUTHO: Objection, the document speaks
 10:50:39 **23** for itself.
 10:50:40 **24** **A.** That's what the signature shows.
 10:50:42 **25** **Q.** Okay. And then the Agreement is entered by
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10:50:47 **1** the Court on June 22nd of 2012; correct?
 10:50:51 **2** MR. KLUTHO: Objection, the document speaks
 10:50:52 **3** for itself.
 10:50:54 **4** **A.** That's what it shows.
 10:51:10 **5** **Q.** Page 2.
 10:51:18 **6** **A.** Page 2. Okay.
 10:51:20 **7** **Q.** "DEFINITIONS," section "B," defines the term
 10:51:25 **8** "Holding Company"; correct?
 10:51:27 **9** MR. KLUTHO: Objection, the document speaks
 10:51:28 **10** for itself.
 10:51:31 **11** **A.** It says so.
 10:51:33 **12** **Q.** And "Holding Company," in this Agreement and
 10:51:37 **13** Court order, is Allina Health Systems d/b/a Allina
 10:51:43 **14** Health or its subsidiaries; correct?
 10:51:45 **15** MR. KLUTHO: Objection, the document speaks
 10:51:47 **16** for itself.
 10:51:48 **17** **A.** Correct.
 10:51:49 **18** **Q.** Okay. And then just so there's no confusion
 10:51:53 **19** over the term "Holding Company," further down it says:
 10:51:57 **20** Unless otherwise indicated, for the purpose of this
 10:51:59 **21** Agreement the term Hospital is synonymous with the
 10:52:02 **22** term Holding Company...
 10:52:04 **23** Did I read that correct?
 10:52:05 **24** MR. KLUTHO: The document says more than
 10:52:07 **25** that, and it speaks for itself.
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10:52:11 **1** **A.** That one line you read is correct.
 10:52:15 **2** **Q.** Okay. So let's look at "LITIGATION
 10:52:23 **3** PRACTICES."
 10:52:24 **4** **A.** Okay.
 10:52:26 **5** **Q.** The Hospital --
 10:52:27 **6** And we understand that the hospital includes
 10:52:29 **7** Allina Health Systems; correct?
 10:52:31 **8** **A.** Correct.
 10:52:32 **9** **Q.** Because they're part of the Holding Company
 10:52:34 **10** as defined in the definitions; correct?
 10:52:37 **11** **A.** Correct.
 10:52:38 **12** **Q.** -- shall not give any debt collection agency
 10:52:41 **13** or attorney any blanket authorization to take legal
 10:52:44 **14** action against its patients for the collection of
 10:52:46 **15** medical debts.
 10:52:47 **16** Did I read it correctly?
 10:52:49 **17** **A.** You read it correctly.
 10:52:51 **18** MR. KLUTHO: You're a very good reader.
 10:53:06 **19** **Q.** How is Exhibit 7 not a violation of this
 10:53:08 **20** Agreement?
 10:53:14 **21** **A.** Exhibit 7 is saying that we can sell debt,
 10:53:17 **22** it's not saying anything about taking legal action.
 10:53:25 **23** **Q.** The order from the court says that the
 10:53:27 **24** hospital, Allina, --
 10:53:29 **25** **A.** Umm-hmm.
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10:53:29 **1** Q. -- shall not give any debt collection
 10:53:31 **2** agency, that's ARS, --
 10:53:33 **3** A. Umm-hmm.
 10:53:33 **4** Q. -- blanket, it even uses the word "blanket,"
 10:53:35 **5** --
 10:53:35 **6** A. Umm-hmm.
 10:53:35 **7** Q. -- blanket authorization to take legal
 10:53:37 **8** action against its patients for the collection of
 10:53:39 **9** medical debts.
 10:53:39 **10** A. Correct. And that Agreement --
 10:53:41 **11** Q. No blanket agreements.
 10:53:42 **12** MR. KLUTHO: Counsel, let her answer. Is
 10:53:45 **13** there a question?
 10:53:45 **14** A. That Agreement is not a blanket agreement to
 10:53:47 **15** give them action to take lawsuits, to take legal
 10:53:50 **16** action. It's saying we are going to sell them debt.
 10:54:04 **17** Q. And your interpretation of Exhibit 7 is
 10:54:06 **18** you're agreeing to sell them all unpaid medical
 10:54:09 **19** bills --
 10:54:09 **20** A. Not --
 10:54:09 **21** Q. -- in the past and in the future.
 10:54:11 **22** A. Not "all." Certain unpaid medical bills.
 10:54:17 **23** Which is why then we sign off on Exhibit -- whatever
 10:54:21 **24** one's we've been talking about.
 10:54:23 **25** MR. KLUTHO: Eleven.
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10:54:24 **1** A. -- 11 as individual review.
 10:54:32 **2** Q. Page 4, paragraph 4.
 10:54:41 **3** A. Page 4, paragraph 4.
 10:54:43 **4** Q. The Hospital -- that's Allina -- shall enter
 10:54:47 **5** into a written contract directly with an attorney or
 10:54:51 **6** law firm utilized by it to collect debts from its
 10:54:56 **7** patients and shall not subcontract or delegate the
 10:55:00 **8** selection of any third-party debt collection attorney
 10:55:04 **9** or law firm to its debt collection agency.
 10:55:07 **10** Did I read it correctly?
 10:55:10 **11** A. You read that correctly.
 10:55:12 **12** Q. How is the first paragraph of Exhibit 8 not
 10:55:15 **13** a violation of this Court order?
 10:55:19 **14** A. Exhibit 8. The suit authorization.
 10:55:32 **15** At this point, because it's going with the
 10:55:35 **16** Bill of Sale, we're giving them that authorization.
 10:55:39 **17** So I don't understand why you would think it would be.
 10:55:42 **18** Q. Well the first paragraph of Exhibit 8 has
 10:55:48 **19** Allina delegating to ARS to, quote, select an
 10:55:56 **20** experienced agency to pursue collection of the
 10:55:58 **21** accounts accompanying this Suit Authorization and
 10:56:01 **22** Assignment.
 10:56:02 **23** A. Umm-hmm.
 10:56:02 **24** Q. Correct?
 10:56:03 **25** A. Correct.

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10:56:05 **1** Q. But first of all, ARS didn't actually do
 10:56:07 **2** that, did they?
 10:56:09 **3** MR. KLUTHO: Object --
 10:56:10 **4** A. You'd have to ask ARS.
 10:56:11 **5** Q. Okay. How is that not Allina subcontract or
 10:56:18 **6** delegating the selection of any third-party debt
 10:56:22 **7** collection attorney or law firm to its debt collection
 10:56:25 **8** agency, ARS?
 10:56:27 **9** MR. KLUTHO: Object to the form of the
 10:56:27 **10** question.
 10:56:28 **11** Counsel, you've got a client, Ferkingstad,
 10:56:31 **12** who was not sued by a lawyer, --
 10:56:32 **13** THE WITNESS: Right.
 10:56:33 **14** MR. KLUTHO: -- who was not sued by other
 10:56:34 **15** law firms. That's the issue in this case. Ask
 10:56:38 **16** questions about it.
 10:56:41 **17** BY MR. SCHWIEBERT:
 10:56:41 **18** Q. Do you understand the question?
 10:56:43 **19** A. I do, but I --
 10:56:45 **20** Actually I don't. Repeat the question,
 10:56:46 **21** please.
 10:56:48 **22** Q. How is the first paragraph of Exhibit Number
 10:56:52 **23** 8, which you signed on October 7th of 2015, not Allina
 10:57:01 **24** subcontracting or delegating the selection of any
 10:57:07 **25** third-party debt collection agency or law firm to its
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10:57:10 **1** debt collection agency, ARS?
 10:57:13 **2** MR. KLUTHO: Objection, --
 10:57:14 **3** A. That sounds like such fancy words. In my
 10:57:17 **4** mind this is authorizing them to do that. How it's
 10:57:20 **5** not a violation of this, I don't know. Those are all
 10:57:24 **6** kinds of fancy words.
 10:57:25 **7** I'm going to tell you that we do authorize
 10:57:27 **8** this, and at the same time we're also doing a Bill of
 10:57:30 **9** Sale. So the Bill of Sale and the Suit Authorization
 10:57:33 **10** go together.
 10:57:35 **11** Q. I just need to make the record clear --
 10:57:35 **12** A. That's great.
 10:57:38 **13** Q. -- the "this's" and the "that's."
 10:57:39 **14** A. Okay.
 10:57:40 **15** Q. The "this" which allows ARS to select an
 10:57:44 **16** experienced agency to pursue collection is Exhibit 8.
 10:57:48 **17** A. Umm-hmm.
 10:57:49 **18** THE REPORTER: Your answer, please?
 10:57:50 **19** A. Yes.
 10:57:51 **20** Q. And the "that" which is the document which
 10:57:54 **21** says Allina can't do that, is Exhibit 6.
 10:57:58 **22** A. Correct.
 10:58:08 **23** Q. Page 5, paragraph 7.
 10:58:10 **24** MR. KLUTHO: Counsel, I'm just curious.
 10:58:11 **25** What statement in here says they can't pick a

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10:58:14 **1** collection agency?

10:58:18 **2** **Q.** The Hospital shall require --

10:58:20 **3** MR. KLUTHO: Where are you reading now?

10:58:22 **4** **Q.** -- that its --

10:58:23 **5** MR. SCHWIEBERT: Page 5, number 7.

10:58:25 **6** MR. KLUTHO: Well I was just asking the

10:58:26 **7** back -- you got to back up for me.

10:58:28 **8** **Q.** The Hospital shall require that its debt

10:58:30 **9** collection attorneys take the following --

10:58:31 **10** **A.** Can you go back and read the previous

10:58:33 **11** paragraph that we were discussing, please?

10:58:35 **12** **Q.** Paragraph 4: "The Hospital shall enter into

10:58:38 **13** a written contract directly with any attorney or law

10:58:42 **14** firm utilized by it to collect debt from its patients

10:58:46 **15** and shall not subcontract or delegate the selection of

10:58:51 **16** any third party debt collection attorney --

10:58:55 **17** MR. KLUTHO: Attorney.

10:58:55 **18** **Q.** -- or law firm to its debt collection

10:58:58 **19** agency."

10:59:00 **20** MR. KLUTHO: How does that have anything to

10:59:02 **21** do with Ferkingstad?

10:59:02 **22** BY MR. SCHWIEBERT:

10:59:03 **23** **Q.** Paragraph 7, page 5.

10:59:06 **24** **A.** How does that have anything to do with the

10:59:07 **25** case we're talking about?

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10:59:49 **1** **Q.** Does ARS not use attorneys, to avoid

10:59:55 **2** paragraph 7?

10:59:57 **3** MR. KLUTHO: Object to the form of the --

10:59:57 **4** **A.** I'm not an expert on --

10:59:59 **5** MR. KLUTHO: -- question as argumentative.

10:59:59 **6** **A.** -- it. You'd have to ask them.

11:00:06 **7** **Q.** All right. D, for example --

11:00:06 **8** (Interruption by the reporter.)

11:00:09 **9** MR. KLUTHO: That it was an improper

11:00:11 **10** question based upon his own reading of the document,

11:00:13 **11** and it was also obnoxious and argumentative.

11:00:13 **12** BY MR. SCHWIEBERT:

11:00:18 **13** **Q.** d, Serve with any summons and complaint the

11:00:21 **14** form attached as Exhibit A, or such other form

11:00:25 **15** approved in advance by the Attorney General's office;

11:00:27 **16** correct?

11:00:28 **17** MR. KLUTHO: You read that correctly.

11:00:29 **18** **A.** That's what D says, yes.

11:00:31 **19** MR. KLUTHO: We'll stipulate that you read

11:00:32 **20** that.

11:00:33 **21** **Q.** And there is an Exhibit A on page 19 of

11:00:35 **22** Exhibit 6; --

11:00:35 **23** **A.** Okay.

11:00:38 **24** **Q.** -- correct?

11:00:38 **25** MR. KLUTHO: We'll stipulate.

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10:59:07 **1** **Q.** I get to ask the questions and you get to

10:59:10 **2** answer the questions, that's how a deposition works.

10:59:10 **3** MR. KLUTHO: No. You can do whatever you

10:59:12 **4** want.

10:59:12 **5** **Q.** Page 5, --

10:59:12 **6** THE WITNESS: Okay.

10:59:12 **7** **A.** Page 5.

10:59:13 **8** **Q.** -- paragraph number 7. The Hospital, that's

10:59:15 **9** Allina, shall require its third party debt collection

10:59:18 **10** attorneys to take the following actions with respect

10:59:19 **11** to the collection of medical debts from patients.

10:59:23 **12** Did I read 7 correctly?

10:59:24 **13** **A.** Yes.

10:59:25 **14** **Q.** Okay. And then there is "a" through "f";

10:59:30 **15** correct?

10:59:32 **16** **A.** Yes.

10:59:32 **17** **Q.** These are the things that Allina is supposed

10:59:35 **18** to require its debt collectors to do; --

10:59:38 **19** MR. KLUTHO: Objection, --

10:59:39 **20** **Q.** -- correct?

10:59:40 **21** MR. KLUTHO: -- it's debt collection

10:59:42 **22** attorneys.

10:59:42 **23** **A.** Attorneys.

10:59:45 **24** Has nothing to do with agency.

10:59:48 **25** MR. KLUTHO: You read it, counsel.

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11:00:39 **1** **Q.** Was Exhibit A on page 19 of Exhibit 6 or

11:00:44 **2** other form approved in advance by the Attorney

11:00:46 **3** General's office served on Ms. Ferkingstad along with

11:00:49 **4** the Complaint in this matter?

11:00:50 **5** MR. KLUTHO: Objection, irrelevant. This

11:00:53 **6** paragraph, counsel, that you're beating, talks about

11:00:56 **7** attorneys. Your client was not --

11:01:00 **8** **A.** Because ARS is not attorneys, no, this was

11:01:02 **9** not done.

11:01:05 **10** **Q.** I just want to make sure I understand the

11:01:07 **11** answer to the question.

11:01:07 **12** The answer to the question is "no," Exhibit

11:01:10 **13** A was not served on Ferkingstad.

11:01:11 **14** **A.** Correct.

11:01:18 **15** **Q.** Page 8, paragraph 15. The Hospital, that's

11:01:28 **16** Allina, shall enter into a written contract with any

11:01:32 **17** collection agency utilized by it to collect debts from

11:01:36 **18** its patients.

11:01:37 **19** Did I read that much correctly?

11:01:39 **20** **A.** You did.

11:01:40 **21** **Q.** Is there a written contract between Allina

11:01:42 **22** and ARS?

11:01:43 **23** **A.** I already told you earlier that we have a

11:01:45 **24** Business Associates Agreement, so yes, there is.

11:01:49 **25** **Q.** Does that contract require ARS to act in

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11:01:53 **1** accordance with the terms of this Agreement,
 11:01:56 **2** applicable laws, and the policy described in paragraph
 11:01:59 **3** 36 which appears on page 15 and 16 of this document?
 11:02:05 **4** **A.** I haven't read that document in detail so
 11:02:09 **5** I'm not going to answer that on the record.
 11:02:12 **6** **Q.** Did you review that document --
 11:02:13 **7** **A.** I would assume so.
 11:02:15 **8** **Q.** -- in preparation for today's deposition?
 11:02:16 **9** **A.** No, I did not.
 11:02:25 **10** **Q.** Paragraph 21, page 10. "The Hospital shall
 11:02:33 **11** require any third party debt collection agency and
 11:02:36 **12** attorney utilized by it to keep a log of all oral and
 11:02:41 **13** written complaints received by any patient concerning
 11:02:43 **14** the conduct of the agency."
 11:02:45 **15** Did I read that correctly?
 11:02:47 **16** **A.** You read that correctly.
 11:02:49 **17** **Q.** Does Allina require ARS to keep a log?
 11:02:51 **18** **A.** We do.
 11:02:52 **19** **Q.** Okay. Does the contract with ARS provide
 11:02:59 **20** that the failure of them to log and provide all
 11:03:03 **21** patients' complaints will result in termination of
 11:03:07 **22** Allina's contract with ARS?
 11:03:09 **23** MR. KLUTHO: Counsel, you just misread the
 11:03:11 **24** document. You changed a word from "may" to "will."
 11:03:18 **25** Why do you keep staring like that? Object
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11:04:22 **1** agencies or attorneys, and on all cover letters
 11:04:25 **2** serving all lawsuits and garnishment papers."
 11:04:28 **3** And then there's particular language,
 11:04:30 **4** including the number for the Minnesota Attorney
 11:04:32 **5** General's office; correct?
 11:04:33 **6** **A.** Correct.
 11:04:34 **7** **Q.** Do you know if that language appeared in the
 11:04:37 **8** communication with Ms. Ferkingstad in this matter?
 11:04:40 **9** MR. KLUTHO: What communication, counsel?
 11:04:42 **10** Object to the form of the question, --
 11:04:43 **11** **A.** Which communication?
 11:04:43 **12** MR. KLUTHO: -- overbroad.
 11:04:45 **13** **Q.** Let's start with the Complaint.
 11:04:46 **14** When the Complaint was mailed to Ms.
 11:04:48 **15** Ferkingstad was that language included?
 11:04:49 **16** **A.** I did not mail the Complaint, so I don't
 11:04:51 **17** know.
 11:04:52 **18** **Q.** But that's the type of thing that Allina is
 11:04:54 **19** supposed to review in its annual audit.
 11:05:00 **20** **A.** Correct.
 11:05:22 **21** **Q.** Page 15, paragraph 36. The Hospital's board
 11:05:33 **22** of directors --
 11:05:33 **23** **A.** Umm-hmm.
 11:05:33 **24** **Q.** -- Allina's board of directors shall adopt
 11:05:35 **25** the following policies which shall not be inconsistent
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11:03:20 **1** to the form of the question.
 11:03:23 **2** **Q.** Do you understand the question?
 11:03:23 **3** **A.** I understand the question, and again I'll
 11:03:25 **4** reference back to not being super-familiar with the
 11:03:28 **5** Business Associate Agreements.
 11:03:29 **6** We do go through an annual audit for the
 11:03:33 **7** Attorney General Agreement every year with our
 11:03:34 **8** internal counsel, and ARS is part of that audit.
 11:03:39 **9** **Q.** Part of the internal counsel.
 11:03:41 **10** **A.** With our internal counsel, yes.
 11:03:51 **11** **Q.** My question --
 11:03:53 **12** That's the audit, which is actually a
 11:03:55 **13** different provision.
 11:03:56 **14** My question has to do with the contract
 11:03:58 **15** between Allina and ARS.
 11:04:02 **16** **A.** And I'm --
 11:04:03 **17** **Q.** Are you --
 11:04:03 **18** You're just not prepared to --
 11:04:04 **19** **A.** No.
 11:04:06 **20** **Q.** -- testify on the --
 11:04:06 **21** **A.** Correct.
 11:04:06 **22** **Q.** -- contract between the two.
 11:04:08 **23** Paragraph 25. "The Hospital shall include
 11:04:14 **24** the following language on all collection notices sent
 11:04:18 **25** to patients by it or its third party debt collection
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11:05:38 **1** with this agreement. And then "d" is: "A policy
 11:05:42 **2** establishing the procedures to be utilized by the
 11:05:44 **3** Hospital's employees who participate in the collection
 11:05:47 **4** of medical debt..."
 11:05:48 **5** Is there such a policy?
 11:05:54 **6** **A.** Yes.
 11:05:57 **7** **Q.** Is ARS employees of Allina?
 11:06:04 **8** **A.** They're employees of Accounts Receivable
 11:06:07 **9** Services.
 11:06:07 **10** **Q.** Which is a wholly-owned subsidiary of --
 11:06:09 **11** **A.** Allina.
 11:06:09 **12** **Q.** -- Allina.
 11:06:15 **13** Did you review the policy in preparation for
 11:06:18 **14** today's deposition?
 11:06:20 **15** MR. KLUTHO: Counsel, you didn't ask her
 11:06:21 **16** to.
 11:06:21 **17** **A.** No, I did not.
 11:06:23 **18** **Q.** Did you bring a copy of the policy with
 11:06:25 **19** you --
 11:06:25 **20** MR. KLUTHO: You didn't ask her to.
 11:06:27 **21** **Q.** -- to testify today?
 11:06:28 **22** **A.** No. It's publicly on our web page. I can
 11:06:33 **23** get it for you.
 11:06:44 **24** **Q.** 37 is the audit; correct?
 11:06:49 **25** **A.** "Shall review." Yeah. Yes. "Audit's"
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11:06:51 **1** probably a bad word. It's a review.
 11:06:54 **2** You're the one that's all about words, so
 11:06:56 **3** sorry. It is a review of the Attorney General
 11:06:58 **4** Agreement --
 11:06:59 **5** **Q.** Let me read --
 11:06:59 **6** **A.** -- clearly.
 11:07:00 **7** **Q.** Paragraph 37 --
 11:07:01 **8** MR. KLUTHO: You don't need to read it,
 11:07:02 **9** counsel.
 11:07:02 **10** **Q.** The Hospital's --
 11:07:03 **11** MR. KLUTHO: We can see it.
 11:07:04 **12** **Q.** -- Board of Directors, Allina's Board of
 11:07:05 **13** Directors --
 11:07:06 **14** **A.** Correct.
 11:07:07 **15** **Q.** -- reviewing at least one time per year
 11:07:08 **16** Allina's practices in the following areas; correct?
 11:07:11 **17** **A.** Correct.
 11:07:12 **18** **Q.** You referred to this earlier as an audit.
 11:07:13 **19** **A.** Correct.
 11:07:13 **20** **Q.** Correct.
 11:07:14 **21** The first --
 11:07:14 **22** **A.** It's a review.
 11:07:15 **23** **Q.** The first thing that the Board of Directors
 11:07:17 **24** has to do is review the filing of debt collection
 11:07:21 **25** litigation against hospital patients; correct?
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11:09:24 **1** internal debt collectors.
 11:09:26 **2** MR. KLUTHO: Objection, irrelevant.
 11:09:27 **3** **Q.** Correct?
 11:09:28 **4** **A.** We call them patient accounts resolution
 11:09:31 **5** specialists, that's our customer service team that
 11:09:33 **6** takes phone calls when the patients call us. We don't
 11:09:36 **7** call them debt collectors.
 11:09:38 **8** MR. KLUTHO: Counsel, you keep laughing and
 11:09:39 **9** we're leaving. Knock it off.
 11:09:43 **10** **Q.** So if you go back to the bad debt final
 11:09:48 **11** referral document. If Ms. Ferkingstad had called
 11:10:15 **12** Allina on November 9th of 2015 she would have spoke to
 11:10:22 **13** one of these patient account -- I missed the next
 11:10:26 **14** word.
 11:10:26 **15** **A.** Resolution.
 11:10:27 **16** **Q.** -- resolution --
 11:10:28 **17** **A.** Specialists.
 11:10:29 **18** **Q.** -- specialists.
 11:10:31 **19** Correct?
 11:10:31 **20** **A.** Correct.
 11:10:35 **21** **Q.** And that patient account resolution
 11:10:38 **22** specialist would have -- presumably could pull up her
 11:10:42 **23** record; correct?
 11:10:43 **24** **A.** Correct.
 11:10:44 **25** **Q.** And if they had pulled up her record there
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11:07:26 **1** **A.** Umm-hmm. Correct.
 11:07:27 **2** **Q.** Did that --
 11:07:28 **3** When did that happen?
 11:07:31 **4** **A.** The review happens annually.
 11:07:32 **5** **Q.** When in the year?
 11:07:36 **6** **A.** It's hard to say. I would say February or
 11:07:38 **7** March normally. Depends on when the Board meets.
 11:08:16 **8** **Q.** The Complaint against Ms. Ferkingstad was
 11:08:22 **9** filed on October 19th of 2015. I'll represent that to
 11:08:27 **10** you. I don't expect you to have memorized the date.
 11:08:30 **11** **A.** Okay.
 11:08:31 **12** **Q.** When would the annual review by the Board of
 11:08:35 **13** Directors of that litigation have taken place? The
 11:08:46 **14** following --
 11:08:46 **15** **A.** Again, --
 11:08:47 **16** **Q.** -- February or March.
 11:08:47 **17** **A.** -- not necessarily in my purview, but yes,
 11:08:51 **18** it would be included sometime in that year end.
 11:08:56 **19** **Q.** Is there a record of this audit or annual
 11:08:59 **20** review?
 11:09:02 **21** **A.** There -- I don't know.
 11:09:15 **22** **Q.** Does Allina currently have internal debt
 11:09:19 **23** collectors? "c" is --
 11:09:22 **24** **A.** No.
 11:09:22 **25** **Q.** -- the debt collection activities of its
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11:10:47 **1** would have been a balance on her account in Allina's
 11:10:50 **2** records; correct?
 11:10:52 **3** MR. KLUTHO: Counsel, I'm going to object
 11:10:53 **4** as an improper hypothetical. No such call occurred.
 11:10:58 **5** **Q.** Do you understand the hypothetical?
 11:10:59 **6** **A.** I do. Hypothetically, yes.
 11:11:12 **7** **Q.** Are the patient account resolution
 11:11:15 **8** specialists internal debt collectors? I'm just trying
 11:11:19 **9** to figure out who the players are in this --
 11:11:21 **10** No, they're not?
 11:11:22 **11** **A.** No.
 11:11:22 **12** **Q.** They're just people who answer questions
 11:11:24 **13** like Ms. Ferkingstad calling to say, what's my
 11:11:26 **14** balance?
 11:11:26 **15** MR. KLUTHO: Object to the form of the
 11:11:28 **16** question. Ms. Ferkingstad did not call about her
 11:11:30 **17** balance. It's an improper hypothetical.
 11:11:31 **18** **A.** Correct.
 11:11:36 **19** **Q.** Does Allina use debt collection agencies
 11:11:40 **20** other than ARS?
 11:11:43 **21** **A.** No.
 11:11:57 **22** **Q.** So once a year Allina's Board of Directors
 11:11:57 **23** --
 11:12:00 **24** At least once a year Allina's Board of
 11:12:04 **25** Director reviews ARS's debt collection activity under
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11:12:10 **1** section 37 b of Exhibit 6.

11:12:15 **2** **A.** There is an annual review of the Attorney

11:12:19 **3** General agreement, of which ARS is part of.

11:12:22 **4** **Q.** Are you part of that annual review?

11:12:24 **5** **A.** Yes.

11:12:25 **6** **Q.** Do you know what documents are prepared for

11:12:26 **7** that annual review?

11:12:29 **8** **A.** We prepare a summary that --

11:12:34 **9** For my portion I prepare a summary that goes

11:12:37 **10** to our internal counsel, and they present to the

11:12:42 **11** board.

11:12:45 **12** **Q.** Okay. We'll come back to your summary.

11:12:48 **13** Do you know what other documents are

11:12:50 **14** provided to the board in that interview?

11:12:52 **15** **A.** No.

11:12:52 **16** **Q.** No.

11:12:53 **17** What's in your summary?

11:12:56 **18** **A.** I audit our internal processes before we

11:12:59 **19** send them to Accounts Receivable Services. So making

11:13:04 **20** sure that we billed who we were supposed to, that

11:13:08 **21** there weren't complaints that were contested, items

11:13:11 **22** like that. I review a sampling of accounts. I also

11:13:15 **23** review a sampling of accounts to make sure that if

11:13:17 **24** there is an uninsured discount that should be

11:13:20 **25** appropriate, that that was applied. Those are within

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11:14:41 **1** **Q.** Do you get feedback from Allina's Board of

11:14:48 **2** Directors review of these areas?

11:14:50 **3** **A.** No, I do not.

11:14:56 **4** **Q.** Do you know whether or not there is a --

11:14:58 **5** I understand your summary is a part of all

11:15:00 **6** of the information that's given to the board.

11:15:02 **7** **A.** Umm-hmm.

11:15:20 **8** **Q.** You've never seen any Board of Directors

11:15:27 **9** minutes talking about that.

11:15:29 **10** **A.** Correct.

11:15:30 **11** **Q.** It's not something you review.

11:15:31 **12** **A.** Correct.

11:15:32 **13** **Q.** Not something you looked at in preparation

11:15:33 **14** for this deposition.

11:15:34 **15** **A.** Correct.

11:15:50 **16** MR. SCHWIEBERT: Let's take another

11:15:53 **17** 15-minute break.

11:15:53 **18** MR. KLUTHO: Fifteen minutes? What do we

11:15:56 **19** need fifteen for?

11:16:06 **20** (Discussion off the record.)

11:16:06 **21** (Recess taken from 11:16 to 11:38 a.m.)

11:38:28 **22** MR. SCHWIEBERT: We are going to postpone

11:38:29 **23** the remainder of this deposition until after I have

11:38:32 **24** filed my motion for sanctions.

11:38:43 **25** As to the personal deposition, are you

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11:13:25 **1** my purview.

11:13:26 **2** **Q.** So what does the summary state? You say you

11:13:29 **3** provide a summary to --

11:13:29 **4** **A.** Right.

11:13:31 **5** **Q.** -- each --

11:13:31 **6** **A.** We sample accounts to see did we do what we

11:13:35 **7** were supposed to do; "yes" or "no." And then the

11:13:37 **8** summary is did we do what we were supposed to do,

11:13:39 **9** "yes" or "no," in the sampling of accounts that we

11:13:41 **10** look at.

11:13:42 **11** **Q.** Do you know how many accounts you sample?

11:13:43 **12** **A.** We sample a hundred a year.

11:13:45 **13** **Q.** Do you know about what percentage of the

11:13:47 **14** total number of accounts that is?

11:13:48 **15** **A.** No.

11:13:48 **16** **Q.** One percent, half a percent?

11:13:50 **17** **A.** I don't.

11:13:51 **18** **Q.** No idea.

11:13:51 **19** And included in that sample are the accounts

11:13:57 **20** that have been transferred to ARS.

11:14:01 **21** **A.** Correct.

11:14:27 **22** **Q.** Do you know how long that summary document

11:14:28 **23** is?

11:14:29 **24** **A.** No. It's pretty short. It's probably a

11:14:31 **25** page.

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11:38:44 **1** going to give the same instructions not to answer if

11:38:46 **2** I ask the same questions during the personal

11:38:49 **3** deposition?

11:38:49 **4** MR. KLUTHO: I have no idea what you're

11:38:50 **5** saying, counsel. I have no idea --

11:38:50 **6** MR. SCHWIEBERT: All right.

11:38:52 **7** MR. KLUTHO: -- what your basis is for a

11:38:54 **8** motion for sanctions.

11:38:56 **9** MR. SCHWIEBERT: Okay.

11:38:56 **10** BY MR. SCHWIEBERT:

11:38:57 **11** **Q.** Can you look at Exhibit 15.

11:39:02 **12** MR. KLUTHO: If you're going to ask the

11:39:04 **13** same questions about 15 through 18; is it?

11:39:06 **14** MR. SCHWIEBERT: Yes.

11:39:07 **15** MR. KLUTHO: Yeah. That's going to be the

11:39:08 **16** same responses. You're now asking her as an

11:39:10 **17** individual, --

11:39:10 **18** MR. SCHWIEBERT: Yes.

11:39:11 **19** MR. KLUTHO: -- Ms. Fountain as an

11:39:13 **20** individual, is that what you're trying to do?

11:39:16 **21** MR. SCHWIEBERT: Yes.

11:39:16 **22** MR. KLUTHO: Yeah. No. She said she

11:39:18 **23** doesn't know anything about these documents, counsel.

11:39:20 **24** MR. SCHWIEBERT: Are you going to instruct

11:39:21 **25** her not to answer any questions regarding those

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11:39:23 **1** documents?
 11:39:23 **2** MR. KLUTHO: Well it's not an instruction
 11:39:25 **3** not to answer.
 11:39:26 **4** **Q.** Can you please turn to page 15?
 11:39:27 **5** MR. KLUTHO: Can you let me finish?
 11:39:29 **6** **A.** Yeah.
 11:39:30 **7** MR. KLUTHO: She can't answer, counsel.
 11:39:31 **8** And we're not going to sit here and have you just
 11:39:36 **9** read documents and say, is that what it says. That's
 11:39:36 **10** not going to happen. So she --
 11:39:38 **11** Do you have any information about these
 11:39:39 **12** documents. Do you have --
 11:39:40 **13** THE WITNESS: No.
 11:39:41 **14** MR. KLUTHO: Do you feel like you have the
 11:39:42 **15** wherewithal to be able to testify about these
 11:39:44 **16** documents, --
 11:39:44 **17** THE WITNESS: No.
 11:39:44 **18** MR. KLUTHO: -- and the knowledge?
 11:39:45 **19** THE WITNESS: No.
 11:39:45 **20** MR. KLUTHO: "No." Okay. Well then just
 11:39:47 **21** tell him you can't answer any questions about those
 11:39:49 **22** documents.
 11:39:49 **23** THE WITNESS: I can't answer questions
 11:39:50 **24** about these documents.
 11:39:50 **25** BY MR. SCHWIEBERT:
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11:39:51 **1** **Q.** We'll take them one question at a time.
 11:39:53 **2** MR. KLUTHO: No, we don't.
 11:39:54 **3** MR. SCHWIEBERT: Are you going to give her
 11:39:55 **4** a blanket instruction not to answer any questions
 11:39:58 **5** regarding Exhibits 15, 16, 17 and Exhibit 18?
 11:40:02 **6** MR. KLUTHO: You just did that with her.
 11:40:04 **7** You're going to ask the same questions you just did,
 11:40:06 **8** right, when you had her as the corporate
 11:40:08 **9** representative?
 11:40:09 **10** MR. SCHWIEBERT: Yes.
 11:40:10 **11** MR. KLUTHO: Yeah. Then you still -- your
 11:40:11 **12** answers are the same; right?
 11:40:13 **13** THE WITNESS: Correct.
 11:40:13 **14** MR. KLUTHO: You haven't gotten any more
 11:40:15 **15** information between now and then; have you?
 11:40:17 **16** THE WITNESS: No, I didn't. No.
 11:40:18 **17** MR. SCHWIEBERT: Just so the record's
 11:40:19 **18** clear, you, counsel, instructed her not to answer in
 11:40:21 **19** the corporate capacity.
 11:40:21 **20** MR. KLUTHO: I know, but --
 11:40:22 **21** MR. SCHWIEBERT: I want to make sure the
 11:40:23 **22** record is clear. You're not making her available to
 11:40:27 **23** answer those questions during her individual
 11:40:28 **24** deposition.
 11:40:29 **25** MR. KLUTHO: Yeah. What the record should
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11:40:31 **1** show is that she didn't go along with my objection
 11:40:33 **2** and instruction. She went ahead, Ms. Fountain, and
 11:40:36 **3** told you that she doesn't have the information to be
 11:40:38 **4** able to answer any questions about those documents.
 11:40:40 **5** Isn't that what you said?
 11:40:41 **6** THE WITNESS: That's correct.
 11:40:43 **7** MR. SCHWIEBERT: We'll bring our motion for
 11:40:45 **8** sanctions.
 11:40:45 **9** MR. KLUTHO: I don't know what you're going
 11:40:46 **10** to get sanctions for.
 11:40:47 **11** Do you have any ability to answer any
 11:40:49 **12** questions about these documents?
 11:40:51 **13** THE WITNESS: No.
 11:40:51 **14** MR. KLUTHO: Okay.
 11:40:52 **15** THE WITNESS: I don't.
 11:40:53 **16** MR. KLUTHO: That's vexatious litigation,
 11:40:55 **17** counsel.
 11:40:56 **18** MR. SCHWIEBERT: That's the end of the
 11:40:57 **19** deposition.
 11:40:57 **20** MR. KLUTHO: What?
 11:40:58 **21** MR. SCHWIEBERT: To be continued pending my
 11:41:00 **22** motion for sanctions.
 11:41:01 **23** MR. KLUTHO: Just stay here. You said you
 11:41:03 **24** had hours of depositions left.
 11:41:05 **25** MR. SCHWIEBERT: I do --
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11:41:05 **1** THE WITNESS: Right.
 11:41:07 **2** MR. SCHWIEBERT: -- but you have put a
 11:41:09 **3** giant land mine in the deposition by saying there are
 11:41:11 **4** things that I can't ask her about that are related to
 11:41:14 **5** the continued questioning.
 11:41:15 **6** I've realized, taking some time and
 11:41:17 **7** thinking about it, it doesn't make sense to go what's
 11:41:19 **8** on the other side of the land mines you've improperly
 11:41:23 **9** placed in front of me.
 11:41:23 **10** MR. KLUTHO: I haven't --
 11:41:24 **11** MR. SCHWIEBERT: So we're going to go to
 11:41:25 **12** the Court and the Court is going to resolve your
 11:41:27 **13** conduct, your client's failure to adequately prepare,
 11:41:29 **14** and your instructions not to answer in this
 11:41:31 **15** deposition. I'm going to ask for another deposition
 11:41:33 **16** in addition to sanctions in that motion.
 11:41:35 **17** I will provide you a detail which we can
 11:41:37 **18** attach in an email to send to the court regarding --
 11:41:39 **19** under the court's required procedures, and then we'll
 11:41:42 **20** file the motion.
 11:41:42 **21** MR. KLUTHO: Yeah. I'm not sure I
 11:41:43 **22** understand that we're tracking, counsel.
 11:41:45 **23** Do you have more questions beyond these
 11:41:49 **24** Exhibits 15 through 18?
 11:41:51 **25** MR. SCHWIEBERT: Yes.
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11:41:51 **1** MR. KLUTHO: Other areas?
 11:41:52 **2** What else are you going to ask besides 15
 11:41:55 **3** to 18?
 11:41:56 **4** MR. SCHWIEBERT: I'm not answering your
 11:41:57 **5** question. We're done. We're done.
 11:41:58 **6** MR. KLUTHO: How can you make a motion on
 11:42:00 **7** something to have her testify about something you
 11:42:02 **8** haven't even asked a question? I've told you about
 11:42:04 **9** 15 to 18, she says she doesn't have any information.
 11:42:07 **10** What else do you have?
 11:42:08 **11** MR. SCHWIEBERT: We'll bring the motion.
 11:42:09 **12** MR. KLUTHO: What else do you have?
 11:42:10 **13** Let's go ahead and do Ms. Drennen now.
 11:42:12 **14** MR. SCHWIEBERT: No.
 11:42:13 **15** MR. KLUTHO: Why?
 11:42:13 **16** MR. SCHWIEBERT: It's noticed for tomorrow,
 11:42:14 **17** that's when I'll take it.
 11:42:16 **18** MR. KLUTHO: And is there a reason --
 11:42:17 **19** MR. SCHWIEBERT: Yes.
 11:42:17 **20** MR. KLUTHO: You noticed a deposition for
 11:42:19 **21** this morning and you noticed a deposition for this
 11:42:20 **22** afternoon. We have all afternoon and we're all here
 11:42:23 **23** and we have the day blocked out.
 11:42:25 **24** MR. SCHWIEBERT: I will take the deposition
 11:42:26 **25** of Ms. Drennen tomorrow, as postponed pursuant to
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11:43:02 **1** MR. KLUTHO: Show me where it included
 11:43:03 **2** that.
 11:43:03 **3** THE WITNESS: Wow.
 11:43:03 **4** MR. SCHWIEBERT: I'll see you tomorrow
 11:43:05 **5** morning at nine.
 11:43:08 **6** THE REPORTER: We are off the record.
 11:43:10 **7** (Deposition suspended at 11:43 a.m.)
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11:42:29 **1** your request, until nine o'clock.
 11:42:32 **2** MR. KLUTHO: I know, but you -- we're
 11:42:34 **3** finished with Ms. Fountain.
 11:42:36 **4** MR. SCHWIEBERT: Well we're suspended until
 11:42:38 **5** the Court --
 11:42:38 **6** MR. KLUTHO: So why don't we --
 11:42:38 **7** MR. SCHWIEBERT: -- grants the motion and
 11:42:39 **8** we come back and do it again.
 11:42:40 **9** MR. KLUTHO: So why don't we use the
 11:42:42 **10** time --
 11:42:43 **11** MR. SCHWIEBERT: Because that's not what I
 11:42:44 **12** want to do, counsel.
 11:42:45 **13** THE WITNESS: You're expecting me to be an
 11:42:46 **14** expert on the financials of Allina?
 11:42:49 **15** MR. SCHWIEBERT: I'm not expecting you to
 11:42:51 **16** be an expert on anything. I'm expecting you to come
 11:42:54 **17** prepared to testify on the topics, which included
 11:42:56 **18** that document.
 11:42:56 **19** MR. KLUTHO: Where did it include this
 11:42:57 **20** document? Show me. Maybe I'll --
 11:42:57 **21** MR. SCHWIEBERT: We're going to do it --
 11:43:00 **22** MR. KLUTHO: Maybe I'll rethink.
 11:43:00 **23** THE WITNESS: Yeah. No.
 11:43:00 **24** MR. SCHWIEBERT: We're going to do a motion
 11:43:02 **25** practice.
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1 C E R T I F I C A T E
2 I, Debby J. Campeau, hereby certify that I
3 am qualified as a verbatim shorthand reporter; that I
4 took in stenographic shorthand the testimony of
5 JOCELYN J. FOUNTAIN at the time and place aforesaid;
6 and that the foregoing transcript consisting of 119
7 pages is a true and correct, full and complete
8 transcription of said shorthand notes, to the best of
9 my ability.
10 Dated at Lino Lakes, Minnesota, this 30th
11 day of October, 2017.
12
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15 DEBBY J. CAMPEAU
16 Notary Public
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1 S I G N A T U R E P A G E

2 I, JOCELYN J. FOUNTAIN, the deponent, hereby
 3 certify that I have read the foregoing transcript,
 4 consisting of 119 pages, and that said transcript is
 5 a true and correct, full and complete transcription
 6 of my deposition, except per the attached
 7 corrections, if any.

8 PAGE LINE CHANGE/REASON FOR CHANGE

9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____

18

19 _____
 20 Date Signature of Witness

21

22 WITNESS MY HAND AND SEAL this _____

23 day of _____, 2017.

24

25 (DJC) _____

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